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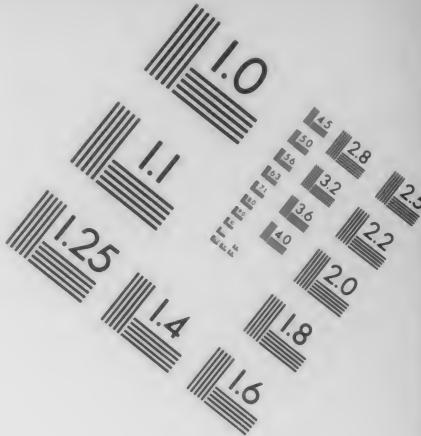
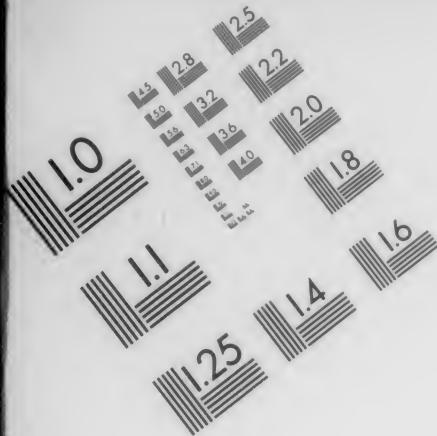
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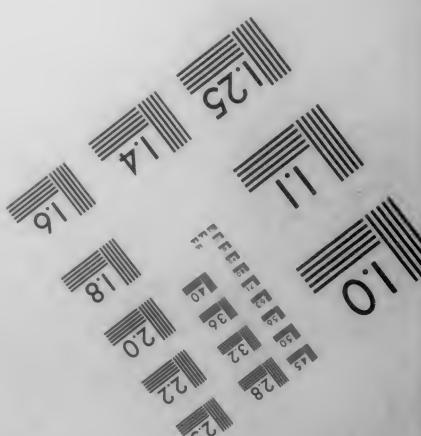
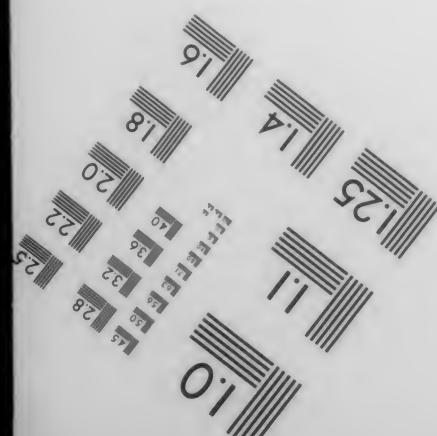
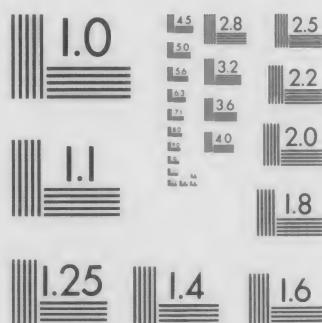
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THE POLITICAL THEORY OF THOMAS HILL GREEN

BY

JOHN, B. S., M. A.

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIRE-
MENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY
IN THE FACULTY OF POLITICAL SCIENCE
COLUMBIA UNIVERSITY

NEW YORK
W. D. GRAY, 106 SEVENTH AVE.
1920

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in the City of New York

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PREFACE

Shrouded in mysticism, the idealist political philosophy seems to be as far removed from practical politics as the Einstein formula is from everyday engineering; but far removed as it may seem, it was and yet remains an influence to be reckoned with. It is on this ground that this monograph is justified, and readers, if any, are requested not to regard it as unnecessary exertion in a mental gymnasium.

Errors and inaccuracies there may be. Writing in a language that is not his mother tongue, the author is confronted with difficulties which only those who have struggled hard to express themselves in distant lands can adequately appreciate. Fortunately he has enlisted the aid of a number of his friends. To them he is grateful. He is thankful to the Professors whose lectures he attended. Finally, he is at a loss to express adequately his indebtedness to Professor Dunning, whose suggestions and criticisms have been at all stages helpful; but then, consistent with "oriental inscrutability," silence probably speaks with better eloquence than words.

Y. L. CHIN.

New York City, September, 1920.

CONTENTS

	PAGE
Introduction	9

CHAPTER I

Metaphysical and Ethical Background.....	21
1. Freedom in Intelligence.	
2. Freedom of Will.	
3. Common Good.	

CHAPTER II

The Theory of Natural Rights.....	44
1. In General.	
2. Personal Rights or the Rights of Free Life.	
3. Rights of Property.	
4. Rights in Private Relations or Family Rights.	

CHAPTER III

Green and His Predecessors.....	55
1. Spinoza.	
2. Hobbes.	
3. Locke.	
4. Rousseau.	
5. Austin.	

CONTENTS

CHAPTER IV		PAGE
The Basis of the State.....	1.	
1. Sovereign de jure and Sovereign de facto.	2.	69
2. The True Basis of the State.		
CHAPTER V		85
The Principle of State Interference.....	1.	
1. In General.	2.	
2. Resistance to the State.		
CHAPTER VI		95
Applications of the Principle of State Interference...	1.	
1. Freedom.	2.	
2. Freedom of Contract.	3.	
3. Capital.	4.	
4. Labor.	5.	
5. Land.		
CHAPTER VII		107
Applications of the Principle of State Interference		
(Continued)	1.	
2. War.	3.	
3. Punishment.	4.	
4. Education.		
4. Temperance.		
CHAPTER VIII		125
Green's Influence		
CHAPTER IX		145
Conclusion		

INTRODUCTION

"For thirty years and more," said Prof. Hobhouse in his *Democracy and Reaction*, "English thought has been subject, not for the first time in its modern history, to powerful influences from abroad. The Rhine has flowed into the Thames, at any rate into those upper reaches of the Thames, known locally as the Isis, and from the Isis the stream of German Idealism has been diffused over the academical world of Great Britain."¹

Briefly stated, the German political philosophy, according to Prof. Hobhouse, consists of three fundamental conceptions.² The first is that will is free; that it is self determined; and that individuality or true freedom lies in conformity with our real will, which is different from the will we manifest as private individuals. The second is that our real will is identical with the general will, which is best, if not completely, expressed in the social fabric. The third is that the state is the embodiment of the general will, giving it "vitality," "expression" and "coherence." The state is the common self in which the individual self is absorbed. It is the fountain of authority. It is the realization of our moral ideal. It is an end in itself. Thus German idealism becomes political absolutism.

One of the scholars formerly credited with and now blamed for the introduction of German political thought into England is Thomas Hill Green. He was born April 7, 1836, at Birkin in the West Riding of Yorkshire, the son

¹ Hobhouse, *Democracy and Reaction*. P. 77.

² Hobhouse, *The Metaphysical Theory of the State*.

of a local rector. He went to school at Rugby and in October, 1855, he entered Balliol College, Oxford. In 1860, he was employed to lecture on history, "and in November of that year he achieved his youthful ambition by being elected a fellow of the College."³ From 1860 till his death in 1882, he taught at Oxford and was active in local politics, being elected in 1876 to the Oxford town council. He was the first college tutor to enter public service of that sort.⁴ He was interested in education and temperance. In 1878 he was appointed to the Whyte's professorship of moral philosophy, a position which many had long considered his due. He died March 26, 1882.

We are indebted to Mr. R. L. Nettleship for the publication of Green's works, which are contained in three volumes. The first and second volumes are philosophical and the third miscellaneous. Green's political theory is practically embodied in his Lectures on the Principles of Political Obligation delivered in 1879 and 1880. They are reprinted from the second volume of the Works and now appear in a separate volume for the convenience of the readers. His Prolegomena to Ethics contains the substance of a series of lectures on philosophy, embodying the metaphysical and ethical background of his political thought. It was published posthumously and not included in The Works. His lectures on Good Will, on The English Commonwealth and on Liberal Legislation and Freedom of Contract contribute directly to the understanding of his political theory.

In order, however, to give a clear view of his theory, it is necessary to present a general review of the intellectual tendencies of his time. A man of Green's type could not be easily satisfied with the traditional and the then existing

³ Works, Vol. III. Memoir XVII.

⁴ Works, Vol. III. Memoir CXIX.

English political and social philosophy. To him at least that philosophy lacked an adequate notion of the individual man. It more often considered man as a passive recipient of external stimuli than as an originator of various phases of human activities. To appreciate this let us trace the course of English speculation from Thomas Hobbes to the present time.

Hobbes (1588-1679), it will be remembered, was frankly materialistic.⁵ He explained the acquisition of knowledge by the operation of the senses and attributed human passions and emotions to the antithesis of appetite and aversion.⁶ In political theory, his conception of sovereign power was somewhat too absolute and his picture of the state of nature was altogether too gloomy. In this respect, Locke (1632-1704) was happier. His state of nature was by no means lawless. Intensely sympathetic with the revolution, he argued for popular sovereignty. Governmental power was to him always in the nature of fiduciary trust, hence he made it ultimately responsible to the people.⁷ In his theory of knowledge he was essentially a sensationalist. His enthusiasm in combatting the theory of innate ideas carried him far into the precarious position of championing the doctrine of Tabula Rasa.⁸ Baldly stated, mind was to him but a blank and ideas were merely sensations "continued to the brain." That the doctrine was futile to the theologians need not be dwelt on at any length. Berkeley (1685-1753) inspired by theological idealism, struggled hard to overturn the Lockian premise, but his efforts seemed to have only resulted in the more cogent empiricism of David

⁵ Dunning, *A History of Political Theories*, Vol. 2, p. 266.

⁶ Hobbes, *Leviathan*, chap. 6.

⁷ Locke, *Two Treatises of Government*.

⁸ Locke, *Essays on Human Understanding*.

Hume (1711-1776). While in political theory the latter inflicted a fatal blow to the conception of social contract,⁹ in ethics he prepared the way for Jeremy Bentham. His belief that utility was the determining motive in all phases of human conduct was strictly utilitarian and his conception of human nature as essentially knavish¹⁰ was not different from that of Thomas Hobbes.

In the meantime the political doctrines promulgated by Locke were spread broadcast. In America the conception of natural rights and the idea of popular sovereignty found their way into legal documents.¹¹ While party differences soon appeared there was really no disagreement as to the fundamental principle. In France rightly or wrongly Montesquieu (1689-1755) admired the English political system of his time. Through him the doctrine of checks and balances became a political dogma for it was believed that only through that system could liberty be made secure.¹² At the same time Physiocrats were formulating their dogma of *laissez-faire*, and Jean Jacques Rousseau (1712-1778) paved the way for the principles of 1789. It was the former who started the study of economics, it was the latter who popularized the social contract.¹³ His state of nature was one of isolation. His conception of a general will as the principle of sovereign action was revolutionary to the traditional line of thought, but his insistence that government should be based on the strict consent of the governed contained the same difficulty inherent in that

⁹ Hume, *Essays, Moral, Political and Literary*. Vol. I, p. 443.

¹⁰ Dunning, Vol. 2, p. 383.

¹¹ Virginia Constitution of 1776 and Declaration of Independence.

¹² Montesquieu, *Spirit of the Laws*. Book XI, Sec. 5.

¹³ Rousseau's influence on French Revolution, claimed by Janet, denied by Jellinek.

theory. Though they—Rousseau and the Physiocrats—ran into different lines of thought, it may be safely said that they started from the same principle. In England Adam Smith (1723-1790), with a full load of physiocratic tendencies, came forth with a comprehensive system of political economy. At a time when the Industrial Revolution was making its initial progress, the Scotch moral philosopher could not be deprived of a large following. Where, however, the master was cautious, the disciples became positive and certain. Precepts became dogmas. Social relationships became economic laws. There soon came into prominence a group of men known as Classical Economists. Whatever their differences, whether the pessimism of Malthus (1766-1834), or the hardheadedness of Ricardo (1772-1823) or the rigidity of Senior (1790-1864) and McCulloch (1789-1864), they were all worshippers of what was then believed to be nature and natural laws. Human beings were primarily economic and economic laws were generally conceded as immutable.

In the field of law Blackstone (1723-1780) came out with his *Commentaries*. With an interest in history as intense as his, he could not regard with favor the conception of social contract. In fact, according to him, people kept together because of their sense of fear and helplessness. It was, however, in the rigid conception of sovereignty that he exercised the greatest influence. His analysis of law presupposed a political superior and sovereignty came to be known as "supreme, irresistible, absolute and uncontrolled power." His *Commentaries* called Bentham's genius into play. With Bentham (1748-1832) and his disciples Utilitarianism came into prominence. Human motives and activities were according to them reducible into pleasure. That which produced pleasure was considered good and desirable, and that which

produced pain, bad and to be avoided. Carried to the political field the slogan became "the greatest happiness for the greatest number." Government existed because people on the whole were happier than without it.¹⁴ Law to Bentham was an expression of will in the form of a command. The conception of rights was unmeaning if not accompanied by a conception of duty. Rights and duties were interdependent. Legal rights and duties were not predictable of the sovereign, but moral rights and duties were. The power of the sovereign was finally based on the ability to cause the greatest happiness to the greatest number. The influence of the Utilitarians was readily felt, for even if nobody knew exactly what happiness was, every one could figure out for himself as to who really constituted the greatest number.

From the above review, it is easy to understand why Green is not in sympathy with the traditional political and social philosophy. Basically it is either materialistic or at best empirical, but Green is an idealist. Both Hobbes and Locke believed in the conception of a social contract, but to Green such a contract is both historically and logically impossible. The Utilitarians characterized human effort as pleasure seeking, but to Green pleasure is never the propelling force. The Economists created the fiction of an economic man, but to Green to believe in an economic man is to subject freedom to necessity.

John Stuart Mill (1806-1873) was somewhat of a puzzle. Indeed, it could be said of him as of the Bible, that saints and devils would make use of him alike. Known as a bourgeois economist, he was claimed by some to have died a socialist.¹⁵ Starting as a Benthamite, he ended merely

¹⁴ Bentham, *Fragment on Government*.

¹⁵ Barker, *Political Thought from Spencer to To-day*. P. 213. Pease, *History of the Fabian Society*. P. 259.

a nominal Utilitarian. Arguing for individualism, he was yet free from anarchistic tendencies. His *Essay on Liberty* was a departure from the traditional point of view. In the words of Mr. Barker, it "gave a deeper and a more spiritual interpretation to the conception of liberty. From a conception of liberty as external freedom of action necessary for the discovery and pursuit of his material interests by each individual, Mill rose to the conception of liberty as free play for that spiritual originality with all its results in individual vigour and manifold diversity. . . . In a similar way, in his *Essay on Representative Government* he spiritualized the Benthamite defense of democracy."¹⁶

The period starting from 1848 to the late seventies was as diverse as Mill's intellectual personality. Enormous progress was made in all aspects of social science. Let us note the tendencies in Political Economy, Jurisprudence, History, Sociology and even in Biology in so far as they bear on political theory.

In Political Economy the theories of the Classical Economists still dominated the field. In their interpretation and formulation of economic laws, they in effect became the defenders of the then existing order. While foreign influence, whether the Nationalist Protectionism of Frederick List, or the International Socialism of Karl Marx (1818-1883), or the Communistic Utopianism of the early French writers, was not yet much felt in England, a somewhat disconcerting doctrine appeared on the horizon. Robert Owen's schemes failed in practise but his ideas succeeded in directing thought to a new direction. In the sphere of theory the Ricardian Socialist¹⁷ failed to see any particular glory in the existing system of distribution

¹⁶ Barker, *Political Thought from Spencer to To-day*.

¹⁷ Lowenthal, Ricardian Socialists.

of wealth. In the sphere of practical politics while there were no national workshops in London as there were in Paris in 1848, different attempts at economic and social reform were not totally lacking. While Cobden (1804-1865) and Bright (1811-1889), specifically aiming at the corn laws, preached for laissez-faire, Maurice (1805-1872) and Kingsley (1819-1875), moved by the prevailing misery, prayed for a more genuine cooperative effort.¹⁸ When Henry George (1839-1897) published his *Progress and Poverty* in 1879 economic thought had already entered a new era.

In Jurisprudence the analytical school had its exponent in the person of John Austin (1790-1859). To him state was chiefly based upon force, and obedience was essentially a matter of fear. His theory of sovereignty, no matter how concisely stated, would involve a description rather than a definition. It involved firstly a determinate superior not in the habit of rendering obedience to a like superior, and secondly it involved a given society with its bulk of people habitually obedient to that determinate superior. "Positive law" was distinguished from "positive morality." Since "positive law" was primarily considered as a command from a superior, it followed that the sovereign was above legal rights and duties. On the other hand, Sir Henry Maine (1822-1888), dissatisfied with the analytical school, traveled far into antiquity and on his return trip sought to stem the rising tide of popular government.¹⁹ The doctrines of Rousseau as well as those of the Benthamites were equally distasteful to him. With his immense intellectual power he sought to destroy both by a single blow, but in doing so he probably became more

¹⁸ Woodworth, *Christian Socialism in England*.

¹⁹ Maine, *Popular Government*.

pessimistic than intended. Mr. Barker thinks that being a lawyer, Maine shared the conservatism of his profession,²⁰ while Professor Giddings suggests that in his thorough-going study of early institutions he neglected the psychology of modern men.²¹

The historical method in the study of law in Germany as well as in England necessarily affected history proper, especially so when the idea of evolution began to be popular among the intellectual luminaries. The idea of evolution was claimed to be historical method applied to the facts of nature, and historical method was regarded as the idea of evolution applied to the development of human institutions. The roots of the present were believed to have been planted deep in the past. Hence antiquarian spirits of all sorts began their mental excursions into the back forests of Germany in order to explain the then existing political and social facts. Nor in historical interpretation was innovation lacking. The traditional method of a chronological enumeration of events was not entirely satisfactory. Neither was a teleological interpretation quite in keeping with the spirit of the times. Though the doctrine of economic determinism²² of Karl Marx was not yet in vogue, Henry Thomas Buckle had already made an ambitious attempt²³ in a similar direction in 1857. While his particular work was not as successful as expected, it did stimulate further attempt by the younger generation.

From across the channel came the gospel of positivism and the worship of Humanity. A priori or metaphysical speculation was not believed to be capable of leading us anywhere, hence knowledge must be generated from the

²⁰ Barker, *Political Thought From Spencer To-day*. P. 168.

²¹ Giddings, *Democracy and Empire*. P. 181 Footnote.

²² Communist Manifesto, 1848.

²³ Buckle, *History of Civilization in England*.

accumulated data of experience. From the conception of man as an independent atomic unit, there seemed to be an attempt to return to the Aristotelian dictum that man is by nature social. But in general outline, it looked as if traditional empiricism acquired a new garb and with it attracted wide attention. It made immense appeal to J. S. Mill and spurred Frederic Harrison (1831-) to a consideration of "Order and Progress." Comte was further regarded as the forerunner of the science of sociology. While America was and probably is the fertile home for this particular branch of science, England should see no cause for envy. Walter Bagehot (1826-1877) may not be classed as a formal Sociologist, but he cherished genuine hope for political regeneration in the sociological process of imitation. His "English Constitution" was for quite a period the last word on that subject, and his "Physics and Politics" broke away at least in method from the more formal and legalistic writers. Herbert Spencer incorporated Sociology into his Synthetic Philosophy and produced the belated argument for laissez-faire embodied in his "Man versus State."

There was enormous progress in the study of natural sciences after Darwin (1809-1882) came out with the results of his observation. It stimulated the study of animal organism and its adaptation. By analogy the study was gradually extended to the so-called social organism. Just as animal organisms have blood vessels and arteries, so also social organisms were believed to have the same. Just as animal organisms struggle for existence, so also social organisms were believed to be engaged in a similar struggle. The fit was believed to survive, but, as Prof. Huxley has pointed out,²⁴ the fit was not necessarily the better,

²⁴ Huxley, "The Struggle for Existence" in *Nineteenth Century*, for Feb., 1888. P. 165.

much less the best. This theory of social organism was not new but it was very much enriched in content, and received a different interpretation. In the hands of Plato it had served one purpose. In the hands of the Germans it served another. But under the leadership of Herbert Spencer it has become somewhat fatalistic, for while on the one hand it has led to a declaration of independence for matter in philosophy,²⁵ on the other it has turned to be an argument for individualistic anarchism in politics.

In spite of previous statements, it may still be asked what is the exact connection between these sciences and political theory. We need bear in mind that political theory is not confined to articles and sections of this or that law. Nor is it limited to constitutions and governments, nor yet to conventions and customs. If it deals with men in society, it also has to deal with men as individuals. If it deals with the aims of political societies it also has to ascertain the vocation of the individual man. What, then, is the conception of man back of these sciences just enumerated? According to the classical economists man is an economic being. According to the Utilitarians he is a pleasure seeker. From the point of view of the naturalist he is primarily an animal organism, and from the point of view of economic interpretation of history he is essentially a passive recipient of external forces. Historians tell him how he has come to be and the lawyers describe his legal status. In fact every writer as well as every school of political thought, as Mr. Wallas has pointed out,²⁶ has his or its own conception of human nature, and that conception is generally based on an abstract being who does not exist. Probably there is truth in every one

²⁵ Works of T. H. Green. Vol. I.

²⁶ Wallas, *Human Nature in Politics*. P. 12.

of them. More likely there is exaggeration in all. Any-way, they seemed to Green to be one-sided and therefore inadequate conceptions upon which to build a comprehensive political philosophy. Political philosophy can not be satisfactory when it is built on inadequate conceptions. If it is unsatisfactory, it needs revision, but it can not be thoroughly revised unless for that purpose you also build a solid foundation. This, then, is the problem which Green took for himself to solve in his *Ethics*. His political theory built upon his ethics was embodied in his *Principles of Political Obligation*. With him ethics and politics can not be studied apart. Being a thorough-going idealist he revolted against empiricism. Believing in the moral vocation of man as differentiating him from mere animal organisms, he assumed the responsibility to emancipate English political theories from the domination of their naturalistic tendencies.

CHAPTER I

THE METAPHYSICAL AND ETHICAL BACKGROUND

Green argues from the existence of nature to the possibility of knowledge and finally to the existence of an Eternal Consciousness. For our present purpose, since we are primarily concerned with the results of his speculation, we might as well start with his Eternal Consciousness without repeating the elaborate process of deduction.

According to him, there is for us and this world a supreme being or existence or God or whatever name you may give it, which is an Eternal, Unifying and Unconditioned Consciousness. It is not in time because it is the condition of there being time.¹ Neither is it in space because it is the condition of there being space. It never began nor will it ever end, because it is that by virtue of which there can be either a beginning or an end. There is no doubt that, according to Green, it is God; but whether or not it assumes the form of human personality he does not expressly affirm. We are told, however, that being divine it has the attributes of divinity. It is complete and perfect. That which pertains to others gradually becomes, but it eternally is. It reveals itself in two different ways.² On the one hand, it reproduces itself in the subjective units which we call men, and on the other it is responsible for the single unalterable system of relations which we

¹ *Prolegomena to Ethics*. P. 59.

² *Prolegomena to Ethics*. P. 37.

understand to be nature. In the one direction, because man is a subjective unit of consciousness, a reproduction of the Eternal Consciousness, he is also divine; and in the other because nature is thus constituted as a single unalterable system of relations which implies spirituality, it is on that account not merely natural. The Eternal Consciousness, while branching into these two directions, is none the less the source of both and therefore transcends them. It is at once responsible for what is called the spiritual principle in nature as well as the spiritual principle in knowledge—spiritual not in the sense of being mysterious but as opposed to phenomenal, that is, opposed to natural.

It has been shown in the introduction that the predominant influence in the intellectual world of Green's time was naturalism. Naturalism implies a study and knowledge of nature and its application to man. Green has no quarrel with the content or the usefulness of that knowledge, but he denies that that knowledge explains its own possibility. To state it baldly, a knowledge of nature does not explain the nature of knowledge. Probably the phrase "nature of knowledge" is one which Green would not employ himself, but for our present purpose it serves our convenience without getting us into trouble. To Green, then, the fundamental question is: How is knowledge possible? The answer to this question is supplied by what he calls the spiritual principle in knowledge.

Let us first find out what nature means. To Green it means objects of possible experience, related events, the connected order of knowable facts or phenomena.³ Knowledge implies that which knows and that which is known.

³ *Prolegomena*, P. 58. Hereafter the word "nature" or "natural" will be used only in this sense, and the word "phenomena" not limited to the Kantian sense.

The fact that nature in its manifoldness is or can be known implies a synthetic unifying principle that knows or is capable of knowing. In Green's words: "Nature implies something other than itself as the condition of its being what it is."⁴ Since that something is other than nature, it does not exist as a part of nature. It is neither in time nor in space. It is a self-distinguishing Consciousness.

This consciousness is the agency through which there is for us a possible objective world. But it may be argued that mental actions are materially conditioned. That, however, may very well be so without making consciousness the result of material conditions, since those very conditions imply a consciousness which renders them in any-way comprehensible. It is also necessary to avoid a dualistic conception from which even Kant was not free.

"Macht zwar der Verstand die Natur, aber er schafft sie nicht." By this Kant means that understanding makes nature, but out of material which it does not make. It implies a dualistic existence of a single reality. With Locke there is in existence an objective world side by side with what is called the work of our mind. The former is real, the latter is denied reality. Reality is attained only when what is conceived in the mind corresponds to the objective world. To Green this is entirely unmeaning, since it is only through our consciousness that it is possible for us to have an objective world at all. Reality is therefore not apart from consciousness. Since nature is an order of related objects or facts or events, reality is but the unalterableness⁵ of a certain relationship presented to consciousness. Since relating is a matter of

⁴ *Prolegomena*, P. 58.

⁵ *Same*, P. 17.

consciousness and therefore not merely natural, reality in the sense already defined can not be merely objective.

There is always the tendency, Green asserts, to treat the knowledge of nature as itself the result of natural processes. It is said that knowledge can not but proceed from experience and experience can only be deduced from objective reality. That in a sense there is truth in this statement Green does not deny; but he holds that we must accept it with reserve, for much, of course, depends upon the meaning of the word experience. If it means chemical or physical effects upon our physical organism, it may continue for any length of time without our knowledge of it; but the kind of experience we are supposed to derive knowledge from is an altogether different thing. The latter is the experience of matters of fact "recognised as such."⁶ Therefore there must be something that does the recognising. In other words, there must be consciousness, and a consciousness of matters of fact thus experienced can not be itself the result of those facts. Neither can a consciousness of experience be the result of that experience; for that experience can not be such if not recognized as such by consciousness. Then there is again the argument that consciousness is derived from previous events. This contention involves the supposition that "the primary consciousness of events results from a series of events of which there is no consciousness."⁷ This seems to be merely an attempt to postpone the difficulty, and as such is quite unmeaning; for events of which there is no consciousness can not be events within our experience and therefore can not be the source of our knowledge. From the argument above presented it appears to Green that knowledge is not a result of nature. Neither is it merely

⁶ Same. P. 20.

⁷ Same. P. 22.

a result of experience. It implies a synthetic unifying principle which is the spiritual principle in knowledge.

But if it is by virtue of a consciousness that there is for us an objective world, does it not follow that the objective world is dependent upon our consciousness? Does it not further lead to the untenable conception that consciousness can create objects at will? And since human beings differ and thinking becomes divergent, what is the basis of reality which, though it is an unalterableness of a system of relations, may be so to one without being so to another? In order that we may be able to answer these questions, let us first examine roughly with Green the nature of nature.

Nature is, as has been pointed out, the connected order of knowable facts, or related events, or objects of possible experience or phenomena. Objects are always related. They are related in identity and probably in half a dozen other ways. If they are not otherwise related, they are related in difference. An unrelated object does not exist. Reality from our definition involves a system of relations. But when we speak of a system of relations we ought to be aware of its implication. It "is to us such a familiar fact that we are apt to forget that it involves all the mystery, if it be a mystery, of many in one. Whether we say that a related thing is one in itself, manifold in respect of its relations, or that there is one relation between manifold things, we are equally affirming the unity of the manifold. Abstract the many relations from the one thing and there is nothing. They being the many determine or constitute its definite unity. It is not the case that it first exists in its unity and then is brought under various relations. Without the relations it would not exist at all. In like manner the one relation is a unity of the many things. They, in their manifold being, make the

one relation. If these relations really exist, there is a real unity of the manifold, a real multiplicity of that which is one. But a plurality of things cannot of themselves unite in one relation, nor can a single thing of itself bring itself into a multitude of relations."⁸ There must, therefore, be something, other than the manifold objects, which does the relating and combining without effacing their individuality.

This unifying and combining principle on behalf of our intelligence we have already identified in our consideration of knowledge. In that case it is the spiritual principle in knowledge. According to Green, "the same or an analogous action is necessary to account for any relation whatever. . . . Either, then, we must deny the reality of relations altogether and treat them as fictions of our combining intelligence, or we must hold that, being the product of our combining intelligence, they are yet 'empirically real' on the ground that our intelligence is a factor in the reality of experience; or if we suppose them to be real otherwise than merely for us, otherwise than in the 'cosmos of our experience,' we must recognise as the condition of this reality the action of some unifying principle analogous to that of our understanding."⁹

It is evident that there must be not only a synthetic unifying principle in our knowledge of uniform relations between phenomena, but also a similar principle that accounts for there being such uniform relations at all. There are two principles, and the question that naturally arises is: How are they to be harmonized in order that there may be a single reality? From our conception of Eternal Consciousness, it can be easily seen that the source of the system of relations in nature and the source of our knowl-

⁸ Same. P. 33.

⁹ Same. P. 34.

edge of it are one and the same. The question, how does the order of nature harmonize with our conception of it, is answered by our recognition of the fact that our understanding of an order of nature and the relations that constitute that order have a common spiritual source, namely, Eternal Consciousness.

Fully convinced of the futility of a dualistic conception of nature and knowledge, Green concludes that the true account to be given is that "the concrete whole, which may be described indifferently as eternal intelligence realised in the related facts of the world, or as a system of related facts rendered possible by such an intelligence, partially and gradually reproduces itself in us, communicating piece-meal, but in inseparable correlation, understanding and the facts understood, experience and the experienced world."¹⁰ There is, in other words, a unity of nature and knowledge in Eternal Consciousness. In such a conception, there can not be any antagonism between appearance and reality, or between the work of mind and the facts of nature. The difficult problem of reality is for Green thus solved.

We have considered nature and knowledge as each having a spiritual principle and both having unity in Eternal Consciousness. We have yet to examine the bridge between the two in the actual process of acquiring knowledge. We need not go into the details of the philosophical commonplaces, such as sensation, conception and perception. Being an idealist, Green necessarily discards the sensationalist point of view. Though he believes in the possibility of a priori conceptions, he concedes that knowledge may and generally does involve sensation. But it must be understood that mere sensation does not consti-

¹⁰ Same. P. 41.

tute knowledge. Knowledge, if it involves sensation, involves it as comprehended by consciousness. Only when consciousness is called into play can there be perception or knowledge.

It may be objected that under this doctrine we can make objects at will. But Green says that we can not make objects at will just as we can not make consciousness at will.¹¹ Again it may be said that our perceiving consciousness varies from time to time. It seems to be so in the process of our knowing, and our learning to know, this world. That is explained by Green as a process through which our animal organism, which has a history in time, is gradually being made a vehicle of the Eternal Consciousness, which has no history and is not in time. Our consciousness may be viewed in two ways. It may "be either a function of the animal organism, which is being gradually and with interruptions made a vehicle of Eternal Consciousness; or that Eternal Consciousness itself, as making the animal organism its vehicle and subject to certain limitations in doing so, but retaining its essential characteristics as independent of time, as determinant of becoming, which has not and does not itself become."¹² The consciousness that varies from time to time is the consciousness in the former sense. The consciousness in virtue of which there can be either nature or knowledge is the consciousness in the latter sense. The above conception does not mean that there is double consciousness in men, but it does mean that the one individual reality of our consciousness can not be comprehended in a single conception.¹³

¹¹ Same. P. 74.

¹² Same. P. 78.

¹³ Same. P. 78.

We may profitably illustrate the whole process of our knowledge by the example Green furnishes out of our reading. "In reading the sentence we see the words successively, we attend them successively, we recall their meaning successively. But throughout their succession there must be present continuously the consciousness that the sentence has a meaning as a whole: otherwise the successive vision, attention and recollection would not end in a comprehension of what the meaning is. This consciousness operates in them, rendering them what they are as organic to the intelligent reading of the sentence. And when the reading is over, the consciousness that the sentence has a meaning has become a consciousness of what in particular the meaning is,—a consciousness in which the successive results of the mental operations involved in the reading are held together, without succession, as a connected whole. The reader has, then, so far as that sentence is concerned, made the mind of the writer his own. The thought which was the writer's when he composed the sentence, has so determined, has so used as organs, the successive operations of the sense and soul of the reader, as to reproduce in him through them: and the first stage in this reproduction, the condition under which alone the processes mentioned contribute to it, is the conviction on the reader's part that the sentence is a connected whole, that it has a meaning which may be understood."¹⁴ The world has its author, nature is his book, man is the reader and reading is knowing. The above may be a crude illustration in philosophy, but it is one that renders clear the acquisition of human knowledge.

That knowledge is empirically conditioned is not open to doubt in Green's mind. He says in one place that the fact that there is a real external world of which through

¹⁴ Same. P. 81.

feeling we have a determinate experience, and that in this experience all our knowledge of nature is implicit, is one which no philosophy disputes.¹⁵ That is to say, consciousness would not be what at any time it is but for a series of events sensible or related to sensibility. On the other hand, man would not be the same subject of intelligent experience if not for the self-realization or reproduction in himself of an Eternal Consciousness which is the condition of there being experience. In virtue of his knowing character in the latter sense, man may be said to enjoy freedom in intelligence. In Green's words he is a "free cause." The word "cause" is not used in the ordinary sense of a necessary antecedent to a given effect; for then it also implies conditions precedent to that antecedent. Cause and effect in the world of phenomena represent a kind of relationship, with one determining the other and itself determined by still other causes. Freedom is not involved in the determination of one natural event by another or of one phenomenon by another phenomenon.¹⁶ Such determination is in two senses unrelated to freedom: first, it does not imply in either the cause or the caused a consciousness of self both as a subject and as an object; and second, it is a determination in which things external to each other form that particular relationship which we call cause and effect.

If we transfer the term "cause" from the above sense to apply to the relation between the world and the agent implied in its existence, we shall find that "free cause" means the determination of man to action by himself. Man is really only free when he acts under the idea that he himself determines himself or his action. The man whom we contemplate from the point of view in which he ap-

¹⁵ Works of T. H. Green. Vol. I, p. 376.

¹⁶ Works of T. H. Green. Vol. II, p. 109.

pears as subject to the laws of nature, as part and parcel of nature, is not a real man.¹⁷ Real or not, it may be objected that man's attainment of knowledge is conditioned on processes in time and on the performance of strictly natural functions. If these processes and functions are so essential to him, how can it be said that a man thus conditioned is not a part of nature but is himself free? The fact that consciousness realizes and reproduces itself in an animal organism does not render a man a mere animal, any more than the fact that animals employ mechanical structures for their movements make the animals mere machines.¹⁸ Man is conscious of himself. He consciously distinguishes himself from his relations. He is conscious of his being a unit, a subject and an object at the same time. Now this self distinction of himself as a manifestation of consciousness is not a process in time, for it is that by virtue of which there can be time. By virtue of his self distinction, he exerts himself freely in activities which are not in time and are not linked in the chain of natural events. His activities are self originated. There is no incompatibility between this principle and the physical processes of brain and nerve which are necessary to human activity. These processes do not make up the knowing and self distinguishing man, and it is, after all, the knowing and self distinguishing man who is a "free cause" in intelligence.

The above paragraphs aim to show that according to Green there is an Eternal Consciousness and that Consciousness reveals itself in two ways: first, in what is called the spiritual principle in nature; and second, in what is similarly styled the spiritual principle in knowledge.

¹⁷ Works of T. H. Green. Vol. II, p. 108.

¹⁸ Prolegomena. P. 89.

The former becomes the knowable nature. The latter becomes the knowing man. His freedom, as we have seen, is established and his spirituality proven. But we have not yet dealt with man other than as a knowing being. We do not yet know his moral capacities. Morality consists in the disinterested performance of self-imposed duties.¹⁹ Moral actions involve willing and the objects willed. It is therefore necessary in the following paragraphs to dwell on the nature of will and the considerations it involves. It is also necessary to examine into the character of the objects willed and its bearing to the persons other than those who do the willing. In the previous paragraphs we were speculating in the world of knowledge, but in the following paragraphs we shall be speculating in the sphere of morality. In the former the purpose is to explain the human effort to know that which is knowable and in the latter the purpose will be to account for the attempt to achieve that which is desired. In other words, to make the contrast more striking even at the risk of being misunderstood, the former is to reduce that which is real to ideal and the latter will be to render that which is ideal also real.

Leaving the world of knowledge we now proceed to the world of practise, bearing in mind that by practise is meant giving reality to conceived object.²⁰ We have shown that the process of knowledge is not natural, we shall now try to demonstrate that moral action is not natural either. Since all actions involve willing it is only logical for us first to define its character and then to find out what it invariably involves. "Will is the capacity in a man of being determined to action by the idea of a possible satisfaction of himself. An act of will is an action so deter-

¹⁹ Principles of Political Obligation. P. 40.

²⁰ Works of T. H. Green. Vol. II, p. 117.

mined."²¹ Will always involves motive, for there is no unmotivated will.²² And motive involves wants and desires which may be, and often are, of animal origin. But on the other hand, it involves not only those wants and desires but also a presentation of them to a self-distinguishing consciousness. A desire is not a motive unless it is presented to consciousness and recognised as such and also as a possible source of satisfaction of one's self. Furthermore, it always involves an idea of good—whatever that may be—in that satisfaction. This idea of good is what gives rise to moral action. It involves a self-reflection and it also involves a judgment. Such reflection and judgment may require constant reference to "customary expressions of moral consciousness" and to "institutions embodying ideals of permanent good." But in the interpretation of these expressions and institutions, reflection and judgment are after all the ultimate determining factors. Motive thus considered involves animal objects, desires or sensible phenomena, but is not itself animal or phenomenal. Just as understanding involves nature that is in time but is itself not in time, so also motive involves objects that are animal and therefore in time but is itself neither animal nor in time. Just as there is freedom in intelligence so also there is freedom in will. In both cases the self-determining and self-distinguishing consciousness is at work.

Will is necessarily influenced by our desire and intellect. In order therefore to understand the character of our will, we have to examine it in relation to both desire and intellect and their inter-relation. Ordinarily when we speak of desire we do not differentiate mere animal desire from

²¹ Principles of Political Obligation. P. 31.

²² Principles of Political Obligation. P. 13.

the desire that is identified by a self-determining consciousness. The former has no moral character because, itself apart from and unidentified by consciousness, it is merely physically determined. Mere animal desires are, however, of a very limited range. Most desires are not dependent upon animal susceptibility,²³ and even if so dependent are themselves transformed by a new element derived from the action of a self-determining consciousness. There is sometimes a state of mind in which many desires conflict and it is said that the strongest desire emerges victorious and hence becomes our will. This, however, does not meet Green's approval. To him will is not desire, whether strong or not. If the word desire is to be persistently used to cover the meaning of both will and animal wants, we need bear in mind that it does not mean the same thing. The desires that are yet conflicting are desires that are not identified by self-consciousness as possible sources of satisfaction out of which good may be derived, while the desire that is so identified by a self-consciousness is already different from those that are conflicting, that is, it is already a motive. In the one case man is acting himself in acting upon a desire that is identified by himself, but in the other the desires exert an influence on him when he is yet undecided. There is no moral significance in the latter but there is in the former.

Let us next turn to the relation between desire and intellect. Is there any unity between the two or are they diametrically opposed to each other? Unity is easily seen at the source, for "the real agent called Desire is the man or subject or self as desiring: the real agent called Intellect is the man as understanding, as perceiving and conceiving: and the man that desires is identical with the man that understands."²⁴ The problem is, however, that to

²³ Prolegomena. P. 141.

desire is plainly not the same as to understand, and the two things can not be satisfactorily explained merely by their relation to the identical source. Green's explanation²⁵ is that both desire and intellect involve the consciousness of self and of a world as opposed to it and the effort to overcome this opposition. Desire strives to overcome this opposition by giving or trying to give reality to an object which when first desired is only ideal. Intellect strives to overcome the opposition by rendering or trying to render ideality or intelligibility to an object which when first presented is only sensible. Furthermore, "the exercise of the one is always a necessary accompaniment of the other. In all exercise of understanding desire is at work."²⁶ And vice versa. "No man learns to know anything without desiring to know it."²⁷ Conversely no one really desires anything without intelligently calculating the possibilities of its realisation. Thus it will be seen that desire and intellect are interwoven, and after all they are different manifestations of the same self-consciousness. They are not separate powers of which one can be exercised without the other. The act of thinking involves the act of desiring and the act of desiring involves the act of thinking. Therefore there is a unity inherent in the actions of both besides the identity of source from which these actions necessarily spring.

It remains necessary for us to examine the relationship between will and intellect. It has sometimes been urged that willing and thinking are opposite to each other. It has also been said that mere thinking is not willing or that

²⁴ Prolegomena. P. 146.

²⁵ Prolegomena. P. 147.

²⁶ Prolegomena. P. 151.

²⁷ Prolegomena. P. 151.

willing is more than thinking. The latter implies that a complementary element needs be added in order to make thinking equal to willing. That is, "if we say, for example, that the act of willing to pay a debt is more than mere thinking" of paying it: what we mean is that "the mere thinking about paying the debt falls short of willing to pay it." This depends upon the meaning of the term thinking. Evidently it is not the kind of thinking that involves a consciousness of "self and the world as mutually determined, of an object present to the self in a desire felt by it, but awaiting realisation in the world."²⁸ Such thinking is always present in willing. A thoughtless will in the above sense is not a will at all. Furthermore, the object willed is the realisation of an idea. It may be an idea of good, or of self-satisfaction or of a dozen other things, but it is none the less an idea. The object of will is also an object of thought.²⁹ In this sense, therefore, thinking is willing. It is not merely a part of us. It is not merely an element in willing. Nor is there any element or factor in willing that is separate and separable from thought. That is, will does not consist of different elements of which thinking is one and has a compartment of its own altogether separate from that of the others. Such a conclusion is inevitable, as will be seen from our discussion of desire and intellect, knowledge and nature and the synthetic unifying principle of human consciousness.

However, this separate discussion of desire, intellect and will may leave the impression that they are independent elements that make up a given action by man. This is, of

²⁸ Prolegomena. P. 170.

²⁹ Prolegomena. P. 171.

course, far from being the opinion of the author himself. He does not, for a moment, think of will as consisting of desire in addition to, and therefore apart from, intellect; for "desire of the kind that enters into willing involves thought: and thought of the kind that enters into willing involves desire."³⁰ Each is not without the other. In fact, there is unity in all. According to Green, "will is equally and indistinguishably desire and thought. . . . If so, it must be a mistake to regard will as a faculty which a man possesses along with other faculties and which has the singular privilege of acting independently of other faculties, so that, given a man's character as it at any time results from the direction taken by those other faculties, the will remains something apart which may issue in action different from that prompted by the character. The will is the man. Any act of the will is the expression of the man as he at the time is."³¹ All the time that he so wills, he may feel, think and desire one hundred and one things, but after all, "it is only the feeling, thought and desire represented by the act of the will that the man recognises as for the time himself."

When Green speaks of self, he means by it the unit in which the Eternal Consciousness reproduces itself. It is "the only thing or a form of the only thing that is real in its own right: the only thing of which the reality is not relative or derived."³² That thus conceived the so-called self becomes somewhat mysterious, Green concedes, if by saying mysterious is meant the inability to explain the question why. But then it is no more so than the very existence of the world. Nor is it in any way abstract; for

³⁰ Prolegomena. P. 171.

³¹ Prolegomena. P. 173.

³² Prolegomena. P. 113.

just as desires, feelings and thoughts would not be what they are if not related to a subject which distinguishes itself from each and all of them, so this subject would not be what it is, if it were not related to the particular desires, feelings and thoughts which it thus distinguishes from and presents to itself.³³ In other words, this conception of self as uniting these desires, feelings and thoughts can not be regarded as too abstract. It expresses itself through them when at any particular time it identifies itself with any of them.

Human will may be either good or bad. Since good and bad are relative terms, a discussion of the one will reveal the nature of the other. What, we may ask, does good will consist of? According to Green, who agrees in the main with Kant, good will consists chiefly of determination by "practical reason" to an action involving an object which is capable of an unity in one's self and others. What is "practical reason"? Practical means that which pertains to giving reality to conceived objects. And "practical reason" Green defines as "a consciousness of a possibility of a perfection to be realised in and by the subject of consciousness."³⁴ Willing involves a subject, as has been explained at length, but in this case, in the case of good will, it involves also an object that originates in reason.³⁵ This object does not originate in desire, for it is "desirable before it is desired and it is coming to be desired because it has been previously recognised as desirable."³⁶ There is, then, a quality of unconditionalness of this object. Green is careful to point out that the object of will is not ordinarily, and to use his own words, does

³³ *Prolegomena*. P. 113.

³⁴ *Principles of Political Obligation*. P. 20.

³⁵ *Works of T. H. Green*. Vol. II, p. 110.

³⁶ *Works of T. H. Green*. Vol. II, p. 111.

not generally coincide with, the object of reason. But like a good philosopher he is far from being hopeless, for the object of will is "intrinsically or potentially and tends to be actually the same as that of reason."³⁷

Good will, in order to be directed to a common object, also involves an idea of an unity of one's self and others. This point can be made clear by Green's discussion of common good and pleasure seeking. His writings are so full of attacks on Hedonism and Utilitarianism that it is hard to single out any particular one for quotation. In the following passage his expressions are quite emphatic and almost vehement. To seek pleasure is to direct one's "dominant interest to an object private to himself, a good in which others can not share. The character of a pleasure seeker is necessarily selfish in this sense. . . . That the pleasure seeker lives for an object private to himself may seem inconsistent with the fact that we share each other's pleasure, but it is not so. When a man is said to share another's pleasure, what is meant is that having desired the same object with the other, he is equally pleased with its attainment: or that, the pleasure of the other having been his object, he is satisfied when that object is obtained when the other is pleased. In each case the pleasure is private to the person enjoying it, and so it must be even when it is incidental to the attainment of an object which is really common. It is only because we confuse the pursuit of a common object, that is, of a good by which others than the pursuer will be the better, with the pursuit of pleasure which will ensue when the object is attained, and thus regard those as pleasure seekers who are not really so, that we come to imagine there can be pleasure seekers who are not selfish, not living for an

³⁷ *Principles of Political Obligation*. P. 21.

object purely private to themselves."³⁸ Pleasure, then, is not necessarily good. It may be incidental to the realisation of an object considered good, but it is not itself the

The above account serves to point out that pleasure seeking is not willing a common good, but it does not exactly tell what that common good is. In order to know what common good is, we have to know what good is. Good, if it is to be true at all, is that which satisfies the desire of the moral agent; and a moral agent is defined as one who is disinterestedly performing self-imposed duties. But according to Green, just what is the nature of good can not be exactly ascertained. We may, however, form a general idea about it. As has been pointed out earlier, The Eternal Consciousness reproduces itself in human beings. "In virtue of this principle in him, man has definite capabilities, the realisation of which, since in it alone he can satisfy himself, forms his true good. They are not realised, however, in any life that can be observed, in any life that has been or is or that can be lived by man as we know him; and for this reason we cannot say with any adequacy what the capabilities are. Yet because man's spiritual endowment is the consciousness of having it, the idea of his having such capabilities and of a possible better state of himself consisting of their further realisation is the moving influence in him... As his true good is or would be their complete realisation, so his goodness is proportionate to his habitual responsiveness to the idea of there being such a true good in the various forms of recognized duty and beneficent work in which that idea has so far taken shape among men. In other words, it consists in the direction of the will to the objects determined for it by this idea, as operative in the person willing, which

³⁸ Works of T. H. Green. Vol. II, p. 144.

direction of the will we may, upon the ground stated, fitly call its determination by reason."³⁹ And reason is defined as the capacity on the part of the self-conscious subject to conceive a possibility of perfection of himself as an end to be attained by action.

The above, then, is the conception of a true good. That it is somewhat dogmatic, Green expressly admits.⁴⁰ That it fails to offer a sure guide seems to be unavoidable; for if we know definitely what those capacities are we shall be more than human beings, we shall be God. But it is this idea of a true good that makes possible the idea of a common good. In fact the latter is inherent in the former. The idea of the absolutely desirable arises out of man's consciousness of himself as an end to himself. Now this self is neither abstract nor empty. He is bound up with interests in common with others. One can not contemplate himself in a better state without contemplating others, not merely as a means to that better state but as sharing it with him. In other words there is a consciousness of kind. Satisfaction of one's self should include satisfaction of others. Well being, in order to be permanent, must be one in which self and others are included. In fact individuals and society are mutually interdependent. While "the life of the nation has no real existence except as the life of the individuals composing the nation,"⁴¹ individuals could not be what they are independent of their existence in a nation.

Green's discussion of the development of personality reveals further the interdependence of individuals and society. Human society to him presupposes persons in ca-

³⁹ Prolegomena. Pp. 206-207.

⁴⁰ Prolegomena. P. 206.

⁴¹ Prolegomena. P. 211.

✓ pacity—the capacity to conceive himself and the bettering of his life as an end in himself—and it is only in the intercourse of men each recognized by each as an end, not merely as a means, that the capacity is actualized and that we really live as persons. Later on Green says: "Without society, no person."⁴² "This is as true as that without persons, without self-objectifying agents, there could be no such society as we know. Such society is founded on the recognition by persons of each other, and their interests in each other, as persons, that is as beings who are ends to themselves, who are consciously determined to action by the conception of themselves as that for the sake of which they act. They are interested in each other in so far as each, being aware that another presents his own satisfaction to himself as an object, finds satisfaction for himself in procuring the self-satisfaction of the other. Society is founded on such mutual interest in the sense that unless it is operative, . . . there would be nothing to lead to that treatment of one human being by another, as an end not merely as a means, on which society even in its narrowest and most primitive forms must rest."⁴³ While on the one hand there can not be society except as between persons each recognising the other as an end in himself and having the will to treat him as such, on the other, it is only through society that individuality can seek actualisation. It will be seen, then, that Green is neither a blind worshipper of society, nor an advocate of anarchistic individualism.

This sketch of Green's metaphysical and ethical doctrines, however short, serves a definite purpose. It points out that according to Green, man is not natural. In intelligence he is a "free cause." In willing he is a free man.

⁴² Prolegomena. P. 218.

⁴³ Prolegomena. P. 218.

He is free in the sense that he is not subject to the determination by external forces. He is self-determined; and in that determination in which he is himself both the subject and the object, there is no "necessity," but freedom. With a free will he is capable of moral action, and with his freedom in intelligence he is capable of creative effort. With his faculty of reason he conceives the idea of good. With his consciousness of an unity of himself with the others, what Prof. Giddings broadly calls the consciousness of kind, he is capable of good will and the idea of common good. Such, then, is the metaphysical and ethical conception of men.

In order to understand Green's political theory, we need bear this conception in mind. In other words, it is necessary to understand the broad metaphysical and ethical foundation upon which his political theory is built, before we can proceed to discuss that theory proper. It may be objected that nowhere is attention paid to what is embodied in conventional morality, such things as virtue, courage, truthfulness, etc. The answer is that they form the content of morality. While they are related to Green's ideas of laws, institutions and customs—which will be dealt with later on—they are not strictly within the sphere of political action. Moral duties are not capable of legal enforcement. In Green's own words, "There is moral duty in regard to obligations, but there can be no obligations as to moral duty."⁴⁴ Since political action is chiefly directed towards maintaining conditions under which morality becomes possible, it is not within the sphere of this treatise to elaborate on that which properly belongs to moral content.

⁴⁴ Principles of Political Obligation. P. 34.

CHAPTER II

THE THEORY OF NATURAL RIGHTS

Green's political theory may be divided into two parts, namely, the principle of political obligation and the principle of state interference. The first includes the theory of natural rights and the theory of the true basis of the state. We will begin with the theory of natural rights.

It is easily seen that Green agrees with Aristotle that man is by nature a social being. There is, therefore, no such separate and isolated man as that described by Rousseau. Even if there is such an animal, it can not be the possessor of rights; (for every right involves always two elements,¹ a claim on the part of the individual and a recognition of that claim by other individuals.) Therefore, if there are any such rights worth speaking of, there is already a society. The idea of men's possessing rights in the sense of rights prior to the formation of society is entirely unfounded.

The theory that society came into existence by contract implies that prior to the institution of the contract, the contracting parties were separate and isolated individuals. According to Green, there were no such individuals. The same theory implies that these isolated individuals had fundamental natural rights. According to Green, there were no such rights. Furthermore, social contract assumes that in forming such a contract men were free and equal. "But if freedom is understood in the sense in which most

¹ Principles of Political Obligation. P. 45.

of these writers seemed to understand it as a power of executing, of giving effect to one's will, the amount of freedom possessed in a state of nature, if that state was one of detachment and collision between individuals, must have been very small. Men must have been constantly thwarting each other and thwarted by the powers of nature. In such a state, those only could be free, in the senses supposed, who were not equal to the rest, who in virtue of superior power could use the rest. But whether we suppose an even balance of weakness in subjection to the crushing force of nature, or a domination of a few over many by means of a superior strength, in such a state of nature no general pact is possible."² It is clear, then, that social contract is not only historically non-existent but also logically impossible.

That does not mean, however, that there are no such things as natural rights if rightly understood. Let us first of all state the traditional conception of natural rights more fully. Human beings are supposed to be born into this world with such rights as of life, liberty and property.³ These rights are natural because they existed for man prior to his forming and joining the social contract and are retained by him after he entered into it. Social contract made political action possible and political action gave rise to legal and civil systems of duties and rights. It is only easy to conclude that these legal or civil rights, being dependent upon natural rights, should base their justification upon their compatibility with those natural rights. Hence the question whether a given civil duty is justifiable or not is determined according as it is or is not

² Principles of Political Obligation. P. 70.

³ The French and American Declarations differ in specific rights.

compatible with natural rights. But Green asks: If civil or legal rights are justified in accordance with their compatibility with natural rights, how are these natural rights to be justified? There is the same necessity of reducing natural rights to something more fundamental, for the question why should these rights be maintained at all has not been answered. They certainly can not exist by themselves. They can not exist without a society, that is, they exist in virtue of there being a society. If their existence is relative to society, their existence is dependent upon something other than themselves. As to what that something is, the traditional conception of natural rights is unable to give us a satisfactory answer. (The Utilitarians indeed have made an improvement in that they regard rights and duties as relative to pleasure and pain. To them rights and duties should be enforced according to their consequences; that is, if their enforcement results in more pleasure enjoyed and less pain sustained, then that enforcement is commendable. This theory avoids the necessity of reducing secondary rights to primary rights which are logically non-existent. To Green, of course, this theory is not acceptable since he does not accept the Utilitarian premise. Pleasure and pain are not that to which rights and duties should be considered relative.

In order to understand Green's own theory, we have to refer back to his Ethics. We learn from the previous chapter that there are such things as good will, common good and moral ideal. Moral ideal is the one factor to which others are relative, to which rights and duties are relative. The word "natural" may be used to qualify certain rights, but in the sense in which alone it can be used, it does not mean "primary," or "previous to the formation of society" or "pertaining to a state of nature." "Natural" as employed by Green means necessary and necessary for

a given purpose. Natural rights are therefore necessary rights for the purpose "which it is the vocation of human society to realise." (In other words natural rights are not themselves an end but a means to an end, just as laws are also means to an end.) A law is not good merely because it enforces natural rights; it is good because it contributes to the realisation of a certain end. That end is the fulfillment of men's vocation as moral beings, the moral ideal. This conception of rights is necessarily based on what should be, rather than what actually is, possessed by men in society. It implies an ideal, unattained condition of one's self to which these rights are necessary. Without such an ideal there can be no natural rights in the sense just discussed; for if the end is not held in view, the means has no excuse for existence.

It will be seen from the above that there are two necessary conditions⁴ under which alone we can possibly speak of rights. No one could begin to think of rights if, first, he is not a member of a society, and, second, of a society in which some common good is recognised by the members of the society as their own ideal good. The capacity of being determined by the idea of good so recognised is what constitutes a moral being.⁵ Since rights exist for the realization of a moral ideal, only men of moral capacity are entitled to rights.⁶ Not only are they entitled to them, they must also actually possess them. Moral capacity "implies a consciousness on the part of the subject of the capacity that its realisation is an end desirable in itself."⁶ Rights are the conditions of realising that end. Only through possessing rights could a man realise that which is recognised as good for himself and society. That does not mean

⁴ Principles of Political Obligation. P. 34.

⁵ Principles of Political Obligation. P. 44.

⁶ Principles of Political Obligation. P. 45.

that rights make any positive contribution to one's realisation in the sense that they actively and actually help him to realize. But it does mean that they are the conditions under which the positive realization of moral capacity is made possible.

The question as to why it is necessary that a person in order to have rights must be a member of a society, is answered by the inherent qualities of both the persons and rights. The chapter on the Metaphysical and Ethical Background reveals the necessary relationships between persons and society. Though society can not exist apart from persons, a person in the sense in which Green designates him to be can not exist apart from society. Persons and the society are mutually dependent. Rights just as much as persons must also be considered from the individual as well as the social side. They involve a claim on the part of the individual and the recognition of that claim on the part of the rest constituting the society. The individual claims the capacity to conceive a common good as his own and direct his energies in the light of that common good. The society recognizes his claim as necessary for each and every one of the society for the purpose of furthering that common good. Without either this claim or this recognition there can be no right. With these two considerations as necessary ingredients, rights can not belong to any isolated being, any being existing apart from society. Natural rights are therefore necessary conditions for the realization of the moral ideal, the fulfilment of the moral capacity. In this sense and in this sense alone therefore there are such things as natural rights, always bearing in mind that by natural is not meant "primary" or "previous to the formation of society" or "pertaining to the state of nature."

What are, then, some of the conditions for moral life, or rather conditions under which moral life may be possi-

ble? What are some of these rights? There are two great divisions, the private and the public. Private rights are those that exist for a man as one in society and public rights are those that come to be attached to a man as a citizen of a state.⁷ Of the private rights there are three classes, namely, the personal rights, the rights of property and the rights of private relations. The first term may be somewhat misleading, since all rights are personal, since it is only by virtue of a person that they are rights at all. By personal rights are meant the rights of life and liberty, that is, "of preserving one's body from the violence of other men and of using it as an instrument of only one's own will."⁸ In other words, the right to free life, including both the right to liberty and life, is essential to the fulfilment of the moral capacity of man and it is only duly claimed and recognized that it becomes a right in the sense in which we have already defined it.

Let us next consider the rights of property. Since property is the center of our modern controversy, we are probably entitled to go more into detail than is warranted in our consideration of personal rights. The fundamental action involved in the acquisition of property is appropriation, and appropriation according to Green is an expression of will, of the individual's effort to give reality to a conception of his own good. Whether it is an instinctive act or not as applied to ants or bees, we do not know, but as it is applied to men it certainly is not an instinctive act. The act of appropriation, like every other act of that sort, reflects a self consciousness capable of distinguishing itself from its wants. This self consciousness says in effect, according to Green, "this [or that] shall be mine to do as I like with, to

⁷ For definition of State see pp. 82-83.

⁸ Principles of Political Obligation. P. 155.

satisfy my wants and express my emotions as they arise."⁹ Property thus appropriated, instead of remaining a mere external material necessary for bodily sustenance, has become interwoven with the personality of the man who appropriates it. Appropriation can not therefore be merely instinctive.

But appropriation as described above is only a claim and a claim alone does not constitute a right. It has to be recognized before it acquires validity. Of the various explanations urged for the validity of property rights, none is entirely satisfactory. Grotius attributed the right of property to a contract, but according to Green¹⁰ contract presupposes property. Hobbes regards the right of property as dependent upon the existence of a sovereign power of compulsion who grants such a right.¹¹ But the sovereign power, if merely a strong force of compulsion, can not be the source of rights, and, if a representative maintainer of rights, implies or presupposes rights. Locke returns to the law of nature and law of reason in his consideration of the right of property.¹² Just as a man is entitled to his body, so he is entitled to the results of the work of his body and the labor of his hand. Property is the result of labor and necessary for the maintenance and expression of life. Locke has the merit of pointing out the intricate relationship between personal rights and the rights of property, but he does not explain the exact grounds upon which the rights can be rights in any sense. According to Green, the basis of the recognition of the claim to property is the same as that of the other claims to rights. Just as society recognizes the claims of a free life as themselves necessary

⁹ Principles of Political Obligation. P. 213.

¹⁰ Principles of Political Obligation. P. 214.

¹¹ Principles of Political Obligation. P. 214.

¹² Principles of Political Obligation. P. 216.

conditions for moral realization and for the common good of the whole, so also it recognizes the claim to property as necessary for that common good. Just as the foundation of the rights of free life lies in the human will, so also the foundation of the right of property.¹³

Green is fully alive to the results of the historical development of the institution of property. He recognizes the divergence between the rational justification and the actual consequences of the right to property. Theoretically, indeed, all may have property, but as a matter of fact he sees that great numbers do not get it. At least they do not get it in the measure in which alone it is of any value; that is, they fail to get a sufficient amount of it to enable them to give expression to their moral life and to facilitate the realization of their moral ideal. He recognizes that a man who has nothing¹⁴ but his labor to sell for a bare subsistence is factually denied the right of property in the ethical sense, the only sense in which property is at all desirable. According to Green, however, this miserable condition is only incidental to and not inherent in the right of property. That right itself is necessary for a moral purpose. The fact that many who have property do not use it for that purpose is no ground for believing that it can not be used for that purpose and therefore should be abolished. Only is it condemnable when the possession of it by one interferes with like possession by another. Only when property of one is used to prevent the acquisition by another does Green subscribe to the Proudhonian declaration that property is theft.¹⁵ The right of property should accordingly carry with it two conditions,¹⁶ first, labor, and, second, the

¹³ Principles of Political Obligation. P. 217.

¹⁴ Principles of Political Obligation. P. 219.

¹⁵ Principles of Political Obligation. P. 220.

¹⁶ Principles of Political Obligation. P. 220.

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respect for the same right of the others, in order that it may not defeat its own purpose.

How shall the right of property thus considered be reconciled with the freedom of trade and the freedom of bequest with all their consequences? Freedom of trade involves the game of buying in the cheapest and selling in the dearest market and in so buying and selling, the merchant often absorbs the legitimate share of labor. Freedom of bequest permits wealth to be transmitted from its creator to his offspring who may not have labored at all towards creating and possessing that wealth. On the whole, however, Green is not antagonistic towards these policies merely because they give rise to inequality of wealth; for he argues that wealth, given the purpose for which it alone can be claimed and recognized as a right, will be just as unequal as men are unequal. Green, to be sure, is not the kind of hero worshipper as, for instance, Carlyle, though he is quite given to admiration for great men. Neither does he believe in the doctrine that "all men are created equal." Furthermore, inequality of wealth is not necessarily the cause of misery; for wealth is not a fixed stock¹⁷ of which more for one means necessarily less for the other. On the contrary, production can be increased and distribution improved. Though he deplores the condition of a large number of men in England at his time, he has pointed out that many, while working at factories, are the owners of shares of stock. It is evident that what he hopes to see is an eventual diffusion of income, a result which many economists confidently expect. Green has very decided opinions on property in land, but that can better be discussed in connection with the principle of state interference.

Lastly let us consider briefly the rights of private relations. These rights are logically based on the same ground

¹⁷ Principles of Political Obligation. P. 224.

as are the other rights. But there is an important difference. The rights of life and liberty are primarily related to the person himself. The right of property is a right over things. But the rights of private relations are rights over persons other than the claimer and possessor of these rights. Husbands and wives have mutual rights over each other. Without going into all the details we may profitably examine two or three points. What, for instance, is it in men that makes them capable of family life? How has there come to be recognition of mutual rights and duties? Is monogamy justifiable? The answer to the first question can be guessed from Green's ideas in other connections. The formation of family supposes a like effort on the part of the parties concerned to give reality to a conception of their own good. It also supposes that this conception of a good is shared by others in the society whose well being is interwoven with their own. The claim of husband over wife and of wife over husband is recognized as conducive to the realization of a common good. Whatever the historical development may be, the rational justification of the rights of private relations is the same as that urged for other rights.

According to Green, all men and all women are entitled to marry and form households and within the households the claims of husband and wife are throughout reciprocal. Polygamy is therefore incapable of justification for several reasons. "It is a violation of the rights first of those who through it are indirectly excluded from regular marriage and therefore from the moral education which results from it, second, of the wife who is morally lowered by exclusion from her proper position in the household and by being used, more or less, as a mere instrument for the husband's pleasure, third, of the children who lose the chance of that full moral training which depends on the concerted action

of mother and father."¹⁸ The first stipulation is evidently based on the supposition that the number of women and men is about equal. Just as polygamy is properly condemnable, so also are all the subterfuges that unhappily exist in some countries where monogamy is legally required. Green goes into a somewhat detailed consideration of the historical process through which family has come to be what it actually at present is, and of the problems of divorce, but since the former is purely historical and the latter a matter of policy, either of the two will be out of place for the specific topic with which we are dealing.

The above is both the theory and substance of natural rights. It may be asked as to just what is the connection between this theory and the principle of political obligation. It will be observed that the theory of natural rights centers around our moral ideal. It is indeed because of our moral ideal that they exist. And when we speak of the principle of political obligation, what we are getting at is really a principle by which we justify our obedience to political authorities. If we obey, we obey by virtue of our moral ideal. Now; political authority as represented by the state exists for the purpose of maintaining our rights and giving fuller reality to them.¹⁹ In other words, it exists for the purpose of maintaining the conditions under which moral life may be possible, bearing always in mind our definition of natural rights. The existence of the state is therefore relative to our moral ideal, and it is in connection with that ideal that the relation between the theory of natural rights and the principle of political obligation becomes evident.

¹⁸ Principles of Political Obligation. P. 237.

¹⁹ Principles of Political Obligation. P. 138.

CHAPTER III

GREEN AND HIS PREDECESSORS

According to Green, the principle of political obligation has never been satisfactorily formulated, although many have tried it. The contract theory is ingenious but it is fallacious. Green saw clearly, however, that that theory can not be overturned on merely historical ground; for it is intended to explain the logical and philosophical presupposition of political authority. In order to demolish it to the satisfaction of its advocates, objections must be based not only on historical but also on logical and philosophical grounds. Furthermore, the contract theory and the traditional theory of natural rights are inseparable. Green has to attack both in order that his own theory of natural rights may prevail. It is with these two reasons in view that he elects for criticism Spinoza, Hobbes, Locke and Rousseau. Austin is chosen because Green's conception of sovereignty is a combination of Austin's with that of Rousseau.

1. Spinoza. According to Spinoza, natural rights are merely natural powers. "Whatever the individual does by the laws of his nature, that he does by the highest right and his right toward nature goes just as far as his power holds out."¹ Human beings are subjects of passions and as such are natural enemies, each struggling for his self interest and preservation. This condition is of course far from being satisfactory; hence society is formed as an arrange-

¹ Principles of Political Obligation. P. 49.

ment whereby peace and order are made secure. Since the power of the rest put together is greater than that of the individual the right of the individual is lessened in the state. On the other hand, the right of the state depends upon the power to effect the hopes and fears of the individual. Whatever can not be achieved by threats or rewards is beyond the power and therefore the right of the state.²

Green considers erroneous Spinoza's conception of natural rights as being enjoyed by an individual apart from the society. It is evident from what has been presented before that, according to Green, natural rights can only exist for man as a member of a society. If one is isolated and apart from society he is incapable of having any right whatsoever. He may indeed have power, as Spinoza says, but power can not be considered as right in any sense. This error is made worse by Spinoza's rejection of final causes. He regards man as determined by material and efficient causes and as himself a material and an efficient cause. Thus considered, according to Green, man is only capable of power. He is not capable of right; for rights are not material attributes of a man. They are ideal attributes which the individual possesses as means for the realization of an end. "It is not in so far as I can do this or that, that I have a right to do this or that, but in so far as I recognize myself and am recognized by others as able to do this or that for the sake of a common good."³ If there is no such an end in view, natural rights, as has been pointed out, are quite meaningless.

2. Hobbes. Since Hobbes is a materialist and Green is an idealist, they can be expected to disagree. Let us state Hobbes' idea in the fewest words possible. Human actions

² *Principles of Political Obligation*. P. 53.

³ *Principles of Political Obligation*. P. 56.

can be reduced to the antithesis of appetite and aversion. Before there is society men are isolated and solitary; they live in a state of nature. There is constant, actual or potential warfare, since every one is seeking for his own interest; there is competition, distrust and love for personal glory. Under such circumstances, there is neither right nor wrong, neither justice nor injustice. Man has natural rights, that is, the liberty or power to do anything he deems necessary for his preservation. This constant warfare is evidently not the kind that affords much comfort, neither is it conducive to the success of preservation. Therefore men come together to form a social contract by which the right to govern is vested in a man or a group of men. Society is thus formed and with it men surrender their natural rights. It will be noticed that the ruler, the sovereign, is not a party to the contract but that his designation by the voice of majority is a stipulation of the contract. Since contract is binding and since it calls for obedience, the minority has no right to resist the power of the sovereign. Thus Hobbes has reached his goal, that is, the absolutism of the sovereign power. It can not justly be resisted, for to resist it amounts to a violation of the contract. It can not be accused of a similar violation because it is not a party to the contract.

Green's criticism can be fore-told. He can not accept the Hobbesian theory of human conduct. His criticism of the theory of natural rights is about the same as that on Spinoza. There is no right in the proper sense prior to the act by which sovereign power is established. There is only power. If there is no right before, there can be no right after, the establishment of the sovereign power; for a power can not create a right. Nor is the power of the sovereign a natural right; for "if natural right means natural power, then upon successful rebellion it disap-

pears."⁴ But if there are rights other than mere power, there must be the possibility of a conflict between the power of the sovereign and the natural rights that may justify resistance.

Green, of course, does not believe in a social contract, but his objection is not so much based on historical grounds as on the others. In fact, even if the contract were historically non-existent, it would be defendable, if only it served to formulate a true conception of the moral relations of men. Not only it fails in this, but it positively confuses the theory of natural rights in permitting these rights to be considered as capable of existing apart from the society. Those who contract must have rights. If there is a social contract, it implies that a system of rights has already existed, and rights that are not merely power.

There is one point in Green's criticism to which his followers will probably welcome a modification. Hobbes draws a distinction between *jus naturale* and *lex naturalis* with one as the propelling and the other as the restraining force.⁵ If Green had sufficiently distinguished these two, he probably would have been appreciated to a greater extent.

3. Locke. While Hobbes wrote to condemn the rebellion, Locke wrote to justify the revolution. It is no wonder that they differ so radically, though both believed in a social contract. Locke's state of nature has none of the horrors of that of Hobbes. In it people live to try to live according to the laws of nature. That does not mean that there is no dispute whatsoever; for if so the contract would not be formed at all. The purpose of forming a political so-

⁴ *Principles of Political Obligation.* P. 66.

⁵ Hobbes. *Philosophical Rudiments concerning Government and Society.* Chap. 14. Sec. III. Dunning, *History of Political Theories*, Vol. II. P. 272.

ciety is threefold. First, it is to formulate a settled law instituted by common consent; second, to recognize a known and disinterested judge; third, to grant powers to some persons to enforce the decisions of such a judge. The powers thus granted can be withdrawn and thus the government established can be overturned. Social contract establishes a civil society but does not have to have the same government. In fact the powers delegated to the government are in the nature of a fiduciary trust. They can be revoked by the grantor whenever the trust is violated. After all, then the people themselves are the final source of authority. In other words, they are the sovereign. If there is a collision between the people and the government, it is the will of the former that ought to prevail. The right of revolution is justified.

To Green, as has been pointed out, state of nature and social contract are a logical contradiction in terms. These terms imply a transition from a non-political society to a political society. The state of nature must be purely negative; it must be non-political or else it need not be differentiated as such. But if it is a state of war, as Hobbes has supposed it to be, then there can be very little freedom, for if freedom means the power to do as one wills, it must be necessarily diminished through constant warfare. Human beings are not equal, and if they are not, there is very little equality in freedom.⁶ The strongest will subdue the rest. Such being the case, a social contract is impossible; for it implies both equality and freedom.

On the other hand, it may also be said, though Green does not say it, that if human beings are exactly equal there will not be war, for there is nothing to gain but everything to lose; hence there is no necessity for social contract. In

⁶ *Principles of Political Obligation.* P. 70.

the former case, contract is impossible and in the latter case, it is unnecessary. If, however, the state of nature is one of peace and human beings are unequal, according to Green it presupposes a guiding influence which prevents them from constant warfare. That guiding influence, according to Locke, is the law of nature. Now the law of nature involves no imponent. If it exists at all, it exists in the consciousness of men, not by command of a superior. If it exists in human consciousness⁷ and to the extent of exerting a constraining force, it must exist along side a conception of natural rights, or rather mutual rights and obligations. If so, they are already members of a political society. There is then already a political society. Social contract can not create a political society out of a state of nature, for contract presupposes a political society. Therefore the whole doctrine of the state of nature and social contract is logically unsound.

Green is a democrat, hence Locke's doctrine of popular government is more acceptable to him than Hobbes' defense of absolute monarchy. But he does not permit his feelings to get the better of his intellect; for he sees that Locke's theory carried to its logical conclusion involves difficulties. In the matter of revolution, if it is to be justified at all, it must be justified in Green's opinion on the ground that the will of the people demands resistance to the government. But the question is, how can any one know exactly or even roughly whether or not a particular revolution really represents the will of the people. On this point Locke offers no guide. The easiest way to find out is, according to Green, some sort of a national referendum, but revolutions are never carried on with that as a basis. Furthermore, they do not succeed merely because they rep-

⁷ Principles of Political Obligation. P. 71.

resent the people's will, nor do they necessarily fail if they do not represent that will. If referendum is legally possible, then an overturn of the existing government is no longer revolutionary. Even referendum does not tell much. Government based strictly on the consent of the governed has some inherent defects.⁸

These criticisms do not seem to be exactly to the point. What we are getting at is evidently the principle of political obligation and these criticisms do not seem to touch that principle. To formulate the principle of political obligation is really to rationalize political obedience. It is to seek for a moral duty for political submission. As far as that goes, the writers criticized above are equally eager for a solution. All this talk of natural rights, of the state of nature and of social contract, however different the conclusions may be at the hands of the different philosophers, reveals a definite aim to offer a rational justification for political obedience, or, if necessary, for political disobedience. And it is also with this purpose in view that Green offers his criticisms, however disconnected they may seem to be from the main theme. Since those writers just now dealt with are on the whole materialistic or at best empirical, their doctrines can not be particularly congenial to that of a man as idealistic as Green. Their theories of political obligation seem to Green to be hopelessly inadequate.

In Rousseau, however, a different element is found. Generally when one thinks of social contract, the three men most often thought of are Hobbes, Locke and Rousseau. To be sure, all propound the theory of social contract, but each does it in a different way, and what is more important for us in this connection, also for a different purpose. With Hobbes, the contract creates an absolute sovereign; with

⁸ Principles of Political Obligation. Pp. 78, 90.

Locke, it renders possible the establishment of a government revocable by the sovereign people, but otherwise detached from them; and with Rousseau, it becomes an instrument through which people become sovereign not as a final source of authority ordinarily held in reserve, but as an active spring of political power, necessitating the conception of a general will as perpetually functioning.

4. Rousseau. According to Rousseau, some pact takes place when men realize that the hindrance to their preservation is too strong for the isolated individuals to combat with. Hence "each of us throws into the common stock his personal and family relations under the supreme direction of the general will, and we accept each member as individual part of the whole. . . . There results from this association, in place of the several persons and several contracting parties, a collective moral body composed of as many members as there are voices in the assembly, which body receives from this act of association its unity, its common self, its life and its will. . . . It is called by its members a state when it is passive, a sovereign when active and a power when compared with other bodies. The associates are called collectively people, severally citizens as sharing in the sovereign authority and subjects as submitting to the laws of the state."⁹ Such a man becomes also a moral agent. He attains moral freedom which consists of obedience to a self imposed law. Since law of the state is but the expression of the general will to which he contributes, he is merely obeying himself when he obeys law. Sovereignty thus considered is totally different from a supreme coercive force. It has the attributes of pure disinterestedness, of reason, of a common ego which wills noth-

⁹ *Principles of Political Obligation*. P. 81, as quoted by Green from Rousseau.

ing but what is for the common good. But Rousseau does not consistently speak in this manner, thus lapsing, according to Green, into dangerous grounds.

Let us examine further Rousseau's conception of sovereignty and government. Sovereignty is not power but will. Power can be delegated, but will can not be delegated. Being the exercise of general will, sovereignty can not be alienated since it can not be delegated. Will by definition is indivisible, so must also be sovereign will and sovereignty. The only exercise of sovereign power, properly so-called, is in legislation, and there is no proper act of legislation except when the whole people comes to a decision with reference to the whole people. The question decided is as general as the will which decides it, and that is how there has come to be law. Law, being the expression to which every one contributes, can not be unjust; for no one can be unjust to himself, and therefore the whole people can not be unjust to the whole people. Since laws are the expressions of their own will, people can submit to them and yet be free. A mere decree from the government is not law; for government is not sovereign at all. The function of the sovereign is legislative, that of the government is executive; the effect of the former is general, that of the latter is particular.

We need not present Rousseau's views in regard to the different forms of government. The important point to remember is that whatever its form, it is not instituted by contract, and therefore it is revocable by the sovereign without incurring the charge of a violation of the contract. In fact, according to Rousseau, in order that authority may not fall in abeyance, it must be constantly exercised even though it can not be exercised except in assemblies of the whole people. Such assemblies must periodically meet to decide whether or not the present form of govern-

ment shall be maintained, whether or not authority shall be left in the hands of those now charged with it. At such meetings laws can be revised and repealed. General will can make itself felt only in such a way.

There, according to Green, comes the trouble. What is the general will and how are we to ascertain it? General will is not the will of all, Rousseau says, but the will common to all. The will of all is the totality of wills, the will common to all is the general will. This general will, according to Green's interpretation of Rousseau, may be tainted by special interests, it may lack enlightenment, but it is none the less right and pure. How can it be ascertained? Does unanimity of the votes in the assembly of the whole people alone represent the general will? The social contract in order to be valid requires unanimous consent and the ones who refuse to join it are not citizens. If they are not citizens, how can the state exact their obedience? And after the passing of those who are parties to the contract, how is it to be ascertained whether anyone coming later on is a party to it or not? Rousseau says residence proves him willing to submit to sovereignty. That, Green points out, hardly answers the question, for residence is no indication of consent, and if by residence in a given area one is morally bound to obey the sovereign, then his obedience is not necessarily based on consent. Rousseau does not require unanimity in the assembly of the whole people for expressing the general will after the contract is formed. But if he does not, how can the minority be bound to obey the rulings of the majority? Rousseau says that if anyone finds himself in the minority, he is bound to suppose that he is mistaken in his views of the general will, therefore he is bound to obey. There is no explanation of the rule of the majority if the minority sincerely doubts the wisdom and integrity of the majority. Rousseau is prob-

ably more consistent than others in basing political obligation on consent, but it seems to Green, his efforts are none the less futile. The contribution that is really valuable is the conception of sovereignty as representing a general will.

5. Austin. But the general idea of sovereignty, according to Green, has come to be more or less Austinian. It is conceived as a supreme law-giving and enforcing power, and if necessary, it also implies coercive force. According to Austin, "the notions of sovereignty and independent political society may be expressed concisely thus: If a determinate human superior, not in the habit of obedience to a like superior, receive the habitual obedience of the bulk of a given society, that determinate superior is sovereign in that society and the society including the superior is a society political and independent."¹⁰ "In order that a given society may form a society political and independent, the two distinguishing marks which I have mentioned above must unite. The generality of the given society must be in the habit of obedience to a determinate and common superior; whilst that determinate person or body of persons must not be habitually obedient to a determinate person or body. It is this union of that positive with this negative mark which renders that certain superior sovereign or supreme and which renders that given society political and independent."¹¹ Green notes that, according to Austin, law is a rule laid down by one intelligent being having power over other intelligent beings for the purpose of guiding them. Laws are divided into two kinds, those set by God to men or the law of nature, those set by men to men or human laws. Of the latter there are again two kinds,

¹⁰ Austin. *Lectures on Jurisprudence*.

¹¹ Austin. *Lectures on Jurisprudence*.

firstly, laws established by the sovereign over his subjects, the positive laws, secondly, laws not established by sovereign but enforced through custom and morals, viz., positive morality. Laws are often spoken of as commands and as such they fit in with the conception of sovereignty, since they necessarily proceed from determinate persons.

The Austinian theory of sovereignty is, in Green's opinion, different from that of Rousseau in two important respects. In fact, in those respects the two conceptions are diametrically opposite. First, Austin regards sovereignty as residing with determinate person or persons, while Rousseau regards it as inalienable and solely retained by the whole people. Second, Austin considers the essence of sovereignty as power of such determinate person or persons over subjects, while Rousseau regards it as representing general will of the citizens. In fact, it will be recalled, Rousseau expressly declared that sovereignty is not power but will. Power can be delegated but not will. While, however, the two views are mutually exclusive, each really has its own merit.

According to Green, Austin is right when he regards sovereignty as essentially resident with determinate person or persons; for political facts, historical as well as contemporary, bear out his contention. No matter how complicated the political systems of the different countries may be, there is always some person or a body of persons in whom the supreme power is vested. That is, there are some persons whose authority knows no legal limitation.¹²

The king in Parliament is the sovereign of Great Britain. There is no legal limit to the action of the king together with House of Lords and Commons. It may, of course, be argued that in Great Britain common law, which is not any command of any determinate person or persons,

¹² Principles of Political Obligation. P. 98.

has been and is an influential body of rules to which people may be said to render habitual obedience. True, but common law may be overruled by statutory laws, and if it is not so overruled, it stands by legislative acquiescence. This state of affairs is by no means limited to Great Britain. Supreme legal authority is also found in the United States where political structure is a complicated system of federal, state and local governments. The federal government is indeed not supreme, that is, it has legal limitations. The Constitution is the supreme law of the land, and legislation contrary to its provisions can be and often is declared unconstitutional. But the Constitution can be amended and the amending power is viewed by many, including Austin himself,¹³ as the sovereign power as far as the United States is concerned. Therefore, as a matter of fact, sovereignty involves in most cases its residence with determinate person or body or bodies of persons who are thus vested with legally unlimited power to make and enforce laws. Since the term sovereignty has acquired this legalistic implication in general, Rousseau, according to Green, is somewhat misleading¹⁴ in attributing general will to it as its essence.

It seems to Green that this legalistic conception is not entirely satisfactory. It is liable to mistake effect for cause. The reason that sovereign power is supreme and habitually obeyed is not that it is capable of coercive force. Force alone does not explain the supremacy of sovereignty. If we examine more closely and emancipate ourselves from this purely legalistic conception, Green argues, we must look for the source of power, which is not and can not be the power itself. It is here that Rousseau's ideas apply to better advantage. The real cause of habitual obedience is not found in any determinate person or persons, but in

¹³ Austin. *Lectures on Jurisprudence*.

¹⁴ Principles of Political Obligation. P. 98.

"that impalpable congeries of hopes and fears of a people bound together by common interests and sympathy which we call the general will."¹⁵ These influences, which for the sake of brevity we call the general will, have been operative historically. Sir Henry Maine says in his Early History of Institutions: "The vast mass of influences which we may call for shortness moral, habitually shapes, limits, or forbids the actual direction of the forces of society by its sovereign."¹⁶ In other words, there is a source from which power is derived. Nominally the power of the sovereign may be characterized as supreme, but factually it is only effective when sanctioned by the good will of the people. The determinate person or body of persons is only able to exercise their power in virtue of an assent if not consent of the people. This assent is not based upon any definite expression of the people; rather is it based upon the desire, the common desire of a common good for a common end to which observance of law and obedience to the sovereign may contribute. There may be persons who wield greater powers than the rest, who exact habitual obedience and who probably possess coercive force. Call him or them sovereign if you will, but don't explain their supremacy by their force. That force will come to nothing when opposed to the people's desire. Let this desire, which may be properly called the general will, cease to operate, or let it come into general conflict with sovereign commands, and the habitual obedience will cease also.¹⁷ In other words:

"There's on earth a yet auguster thing,
Veiled though it be, than Parliament and King."¹⁸

¹⁵ Principles of Political Obligation. P. 98.

¹⁶ Maine. Early History of Institutions. P. 359.

¹⁷ Principles of Political Obligation. P. 97.

¹⁸ Principles of Political Obligation. P. 82.

CHAPTER IV

THE BASIS OF THE STATE

Being a democrat and an idealist, Green leans to Rousseau more than he does to Austin, believing that political obedience is a matter of will rather than power or force. It may of course be urged that this view of general will as the real determinant of the habitual obedience to sovereign power is applicable only to democratic communities, where governors are elected by the people and government is based on the consent of the governed, and is quite inapplicable to despotic countries where despots both reign and rule supreme. This sounds plausible, but according to Green, it is not true.

That the doctrine under consideration applies more directly to the democratic communities is not denied. But in a despotic country in which there is a sovereign, understood in the Austinian sense, general will, Green holds, is equally if not so directly a potent factor in the habitual obedience. There is always a body of customs, conventions and mores which the sovereign, in order to exact obedience, will find it profitable not to ignore. The Russian Tzars, for instance, found it advisable to worship at Moscow often contrary to their will, and the Chinese Emperors thought it worth while, even against their own inclinations, to pay their respects to the memory of Confucius. There may be

communities where coercive force has been successfully employed against the will of the people. In such cases there are generally two conditions worthy of our notice: either there is no sovereign power in the sense of a law-giving and law-enforcing power and therefore also no habitual obedience; or the coercive power of oppression, though constant and recurring, touches the people only at a few points and the obedience thus rendered, though habitual in a sense, is never continuous and is therefore different from the rational and moral obedience to political authority.

The conditions of a so-called tax-collecting despotism offer a fairly satisfactory contrast to the democratic communities. The despots exercise coercive force over their subjects, but exercise it only for a certain specific purpose and only at certain times. They do not legislate in the modern sense, nor do they invade the field of the judiciary, nor do they concern themselves much about customary laws. The subjects render obedience only in regard to those specific things. They are practically left free so far as the laws, institutions, customs and manners are concerned. Life in general is not much affected. They still pay their respects to their patriarch, their priest and their warrior. There is in such a case hardly any sovereign.

The same results can be found in the case of foreign domination over a country which has a highly organized community life. The foreign power is not a sovereign in the sense of a law giver or law maintainer. The subject country has inherited a body of laws and customs which enable it not only to govern itself but also to emancipate itself from foreign domination. North Italy under Austria was in such a condition and the Chinese Empire under the Mongols and Manchus was even more to the point. In both cases, the sovereign, if sovereign at all, is not so in the Austinian sense.

Again there may be aristocratic rulers who are real sovereigns in the sense defined, but in such cases, the power of the rulers is due to a large extent to the good will of the people. Green cites the example of the early Roman Empire¹ in which, he says, the people lived under a system of rights and obligations better than their own. Although they did not vote or expressly give their consent in any form, they by implication assented to the Roman rule. Even the Russian autocrat did not depend upon absolute coercive power for the habitual obedience he exacted from the people; for, it is contended, he conformed to a complicated system of relations, of written and unwritten laws, from which he was by no means independent.

Austin, according to Green, is in a sense right in his theory of sovereignty; so also is Rousseau. How can these views be harmonized? The trouble with both of them is, he says, that when they emphasize one aspect they forget the other. If sovereignty is the power to maintain rights, it has the elements of both force and will. If it sometimes exercises coercive or even tyrannical power, it is not because it is tyrannical or coercive that it receives habitual obedience. On the other hand, sovereignty defined as power and as vested in determinate person or persons may profitably be allowed, according to Green, to retain its legalistic meaning. In that case, it may be misleading to speak of general will as the sovereign. It is however, equally misleading to attribute to sovereignty omnipotence; for if not sustained by general will, it ceases to exist. It is better, according to Green, "to say that law, as the system of rules by which rights are maintained, is the expression of the general will than that the general will is the sovereign. The sovereign being a person or persons by whom in the last

¹ *Principles of Political Obligation.* P. 101.

resort laws are imposed and enforced, in the long run and on the whole is the agent of the general will, contributes to realize that will."² In so far as the sovereign does so contribute to realize that will and is an agent of it, he is in possession of supreme power. On the other hand, if he does not so contribute to realize that will, mere power does not command habitual obedience.

It is only fair to record that Rousseau recognizes the difficulty of his theory of sovereignty and general will as applied to actual political affairs. While in principle he sticks to his conception of sovereignty as consisting in representing general will, he does not, in Green's opinion, altogether avoid the notion that there is supreme law-making and law-enforcing power distinct from the will. Though Rousseau does not expressly differentiate a sovereign *de jure* from a sovereign *de facto*, such a differentiation can be justifiably inferred from *Contrat Social* and is so inferred by Green.³ But such a differentiation, according to Green, can not in any way be justified; for strictly speaking, sovereign *de facto* can not be other than sovereign *de jure*. Confusion between the two generally comes as a result of a confusion of meaning in the conception either of the term sovereign or of the term *jus*.⁴ A sovereign is often described as such without being actually such in the real sense. Thus an English King who is called sovereign, but who is not the determinate person or persons entrusted with the supreme law-making and law-enforcing power, may be said to exercise sovereign power *de facto* when he raises money without the consent of the Parliament. He may be said to be sovereign *de facto* and not

² Same. P. 104.

³ Same. P. 91.

⁴ Same. P. 105.

de jure, since his conduct is contrary to the will of the people as embodied in the laws, customs and conventions. But that is only true as far as the King is only a nominal sovereign, one entirely different from sovereign in the real sense. A real sovereign *de facto*⁵ is always a sovereign *de jure*. Given the definitions, the conclusion is inevitable; you can not change it without changing the definitions.

If the sovereign is a real one in the strict sense, Green argues, the terms *de jure* and not *de jure* are not applicable.⁶ When one speaks of *de jure* or not *de jure*, one necessarily has a definite idea of *jus* in mind. Now what is meant by *jus*? If by *jus* is meant ordinary statutory law, then sovereign *de jure* is a meaningless expression, for such law proceeds only from the sovereign. If by *jus* is meant natural law or natural rights or claims inherent in human beings as members of a society, then indeed a sovereign may not be *de jure*, but then he is not, in Green's opinion, at the same time a sovereign in the real sense, i. e., the supreme law-making and law-enforcing authority. In other words, sovereign *de jure* is a contradiction in terms. A supreme imponent of law is not limited by the law he imposes. He may formulate rules to limit himself but then he is always at liberty to change them.

This process of reasoning facilitates the understanding of the different points of view. When Hobbes says that laws can not be unjust we have to go back to the definition of injustice. If by injustice is meant the violation of contract, and the sovereign is not a party to the contract and therefore can not break it, it necessarily follows that a sovereign can not be unjust. If the sovereign can not be unjust, laws which are laws by reason of their being en-

⁵ Same. P. 105.

⁶ Same. P. 106.

acted by him can not be unjust. But, according to Hobbes, laws can be inequitable and pernicious; for by "inequitable" he means that which conflicts with the law of nature, and by "pernicious" that which tends to weaken the individuals and the community.⁷

Rousseau's argument, Green shows, is similar but on different grounds. His sovereignty is general will, his general will, the will common to the whole people. Since, then, the whole people can not be unjust to the whole people, the sovereign can not be unjust to its subjects.

Green sees that Hobbes thinks of sovereignty as essentially power, and Rousseau thinks of it as essentially will. But whether power or will, sovereignty can not be said to be either *de jure* or not *de jure*. If it is power, as we have seen, these terms *de jure* and not *de jure* are not applicable to it. If it is will, they are equally inapplicable. "A certain desire either is or is not the general will. A certain interest either is or is not an interest in the common good. There is no sense in saying that such desire or interest is general will *de jure* but not *de facto* or *vice versa*."⁸

Confusion comes, according to Green, when sovereignty is made to combine the notions of general will and the supreme law-making and law-enforcing power. It is through this confusion that there is the necessity of making the law-making and law-enforcing power dependent upon the vote of a majority of the citizens and identifying that vote with the general will. It must be understood that general will, though called general, is yet will; and will, being itself unnatural, that is, pertaining to consciousness rather than to the physical world, can not be so mechanically ascer-

⁷ Same. P. 107.

⁸ Same. P. 108.

tained by the "natural" process of a majority vote.⁹ While Rousseau's conception of a general will is a valuable contribution, his identification of that will with the vote of a certain number of persons can not be accepted.

The defect of Rousseau's theory, as Green sees it, is basically one of his theory of natural rights. If natural rights meant fundamental rights, rights that existed prior to the formation of the society and were retained by individuals after it, then they are above all political interference whatsoever, and the only way to justify political obligation is by the theory of consent. As long as consent is the sole source of authority, the difficulty of the justification of the submission of the minority can not be escaped. // According to Green, there is in truth no natural right apart from the society, much less the right to do as one likes irrespective of the society.// A right, it may be repeated, is a condition claimed and recognized as necessary for the realization of the moral ideal and common good of men as members of a society. It can not exist in one individual without relation to society, just as force of gravity of one body can not exist in that body without relation to other bodies. Therefore, no one has the right to resist law or government merely because it requires him to do that which he does not himself approve, or not to do that which he desires. The only question, according to Green, is as Rousseau has put it: Is a given measure in accordance with the general will? In other words, whether that given measure is in accordance with the general will or not, is the real problem. That is a very big problem, and it seems that Green has offered no practical solution. After all, he says, an interest in the common good is the ground for political society, for without that interest "no

⁹ Same. P. 109.

body of people will recognize any authority as having any claim on their common obedience. It is so far as a government represents to them a common good that the subjects are conscious that they ought to obey it, that is, that obedience to it is a means to an end desirable in itself or absolutely."¹⁰

It will be remembered that in his Metaphysics and Ethics Green believes in the interdependence of men and society so that each in fact does not exist without the other. Rights and duties must be considered with this view in mind. // "It is only as members of a society, as recognizing common interests and objects, that individuals come to have these attributes and rights, and the power which in the political society they have to obey is derived from the development and systematization of those institutions for the regulation of a common life without which they would have no rights at all."¹¹ // Or again, the demand for a justification of any submission to authority presupposes some standard of rights recognized as equally valid for and by the person making the demand, and others who form a society with him. Such a standard of rights would be quite meaningless, if it does not possess institutions through which dealings with each other are regulated. These institutions are to the consciousness of right just as language is to thought. They are the expressions with which that consciousness becomes real.¹² They embody the system of rights and obligations through which men restrain themselves. Primitive or conventional morality, which is essentially the observance of rules and obligations, can not exist without these institutions. In a certain sense,

¹⁰ Same. P. 109.

¹¹ Same. P. 122.

¹² Same. F. 123.

then, the body of laws, institutions and customs embody what Rousseau calls the general will.

Rousseau speaks of social contract as the foundation not only of society and sovereignty but also of morality.¹³ Through it men become moral beings. By it, submission to power and to the forces of nature, to greed and appetite is transformed into the moral freedom of subjection to the self-imposed law. If such is the case, he should have seen that natural rights can have no pre-social existence, since they can only exist for the purpose of realizing our moral ideal. Had he seen that, he would have avoided a grave error.

According to Green, morality in the conventional sense and political subjection in the sense of having rights thus secured proceed from the same source. // "That common source is the rational recognition by certain human beings of a common well being which is their well being, and which they conceive as their well being, whether at any moment any one of them is inclined to it or no, and the embodiment of that recognition in rules by which the inclinations of the individuals are restrained and a corresponding freedom of action for the attainment of well being on the whole is secured."¹⁴ // There proceeds from this source, according to Green, an antagonism to some inclinations and a consciousness that such antagonism is founded on reason and on the conception of some adequate good. This antagonism to or constraint of an inclination, whether in relation to an external law or to a self-imposed law, is generally expressed in the term "must."¹⁵ I must register for the army. Or I must volunteer for the army.

¹³ Same. P. 124.

¹⁴ Same. P. 125.

¹⁵ Same. P. 125.

The former may have the element of compulsion in view, if the law is not complied with, but the latter certainly represents nothing of the kind if there is no law for conscription whatsoever. But in both cases there is a certain element of consciousness of a common good which is at the bottom the driving force. Simple fear does not constitute political obligation, neither does force compel it.

It may be objected that such an idea, however pleasing it may sound, is far from representing the fact. In place of good will, some thinkers will say, there is often hatred, and in place of a common good there is class interest; where cooperation alone will ever produce desirable results, competition holds sway. Instead of happiness being the rule, it becomes the exception, and instead of misery the exception, it becomes the rule. People vote, but they do not necessarily elect their governors or decide issues. Representative government governs but it does not necessarily represent. Law is instituted for the good of all, but it is often twisted for the benefit of the few. Judges are appointed for the purpose of maintaining justice, but often they become mere guardians of legality. Under such circumstances, is it not a waste of words to indulge in the high-sounding phrases of common good and moral ideal? If the idea of common good prevails to the extent to which it is claimed as prevailing, there should not and there can not be such misery, such poverty, such conflict of interests and such violence. These undesirable conditions can not be conducive to the realization of the so-called moral ideal, neither do they lead to the observance of rights and duties upon which political obligations are based. If people obey political authorities in spite of this conspicuous absence of the idea of a common good, they must obey on other grounds. It may be more correct to say that they obey by force of habit, or necessity, or for fear of consequences

rather than by reason of a mutual recognition of rights and obligations.

That the actual is far from being the ideal is readily admitted by Green.¹⁶ But it is easy, on the other hand, he points out, to exaggerate the difference, and those who exaggerate it are probably unnecessarily loaded with pessimism. We should bear in mind that every action on the part of the citizen involves more or less the idea of a common good. Some have more of that idea in view, others have less, but none is entirely without it and none, Green admits, has it in all its fullness and completeness. For an ordinary citizen, that idea has probably very little abstract significance, but it is invariably present in his concrete interests. "He has," according to Green, "a clear understanding of certain interests and rights common to himself and his neighbors, if only such as consist in getting his wages paid at the end of the week, in getting his money's worth at the shop, in the inviolability of his own person and that of his wife. Habitually and instinctively, that is, without asking the reason why, he regards the claim which in these respects he makes for himself as conditioned upon his recognizing a like claim in others, and thus as in a proper sense a right—a claim of which the essence lies in its being common to himself with others."¹⁷ The reason that this manifestation of the idea of a common good is not so easily discerned is, not that it is not discernible, but that the supreme coercive power has been and is the outward visible sign. Just as a man is often taken to be what he seems, so a state is only too generally identified with its outward visible sign. But if we go deeper than mere appearances we shall find that the unifying principle of

¹⁶ Same. P. 128.

¹⁷ Same. P. 129.

✓ the state is really the promotion of a common good. In other words, will and not force is the true basis of the state.

But institutions grow and are not made, many will say. Whatever our conceptions of them may be at this present moment, their origin and development involve natural conditions and tendencies and therefore also inevitable results. Rationalize and idealize as much as you please, you can not escape the fact that our political and social institutions are materially conditioned. Given certain conditions, and there will be certain results. In order to understand these results you have to consider all the material conditions—the climate, geographical position, sea coasts, bays, rivers, mountains and the like.

✓ That these influences are instrumental in the development of particular institutions is not denied by Green. But what would these influences be, were it not for the synthetic unifying consciousness? Material conditions may and do condition human efforts, but they do not point to the particular direction in which human development has come to be what it is at present. In other words, the creative capacity of human beings should not be minimized, since after all it is the driving force in the advancing march of civilization. It is because men are moral beings that they have this creative capacity, that is, they have it only because they are capable of being determined to action by the conception of an end absolutely desirable, because they are capable of free will and are themselves free. Right here it may be argued that to be human is not necessarily to be moral. While human efforts may have been indispensable for the formation, for instance, of modern states, these efforts are by no means moral. In fact, many will assert, egotism has been the more effective incentive than altruism. There are the Alexanders, the

Cæsars and the Napoleons. To attribute, for instance, the idea of common good to the "blood-thirsty Corsican" is to ignore an indisputable historical fact.

When we speak of such a historical figure as Napoleon, according to Green, we must not judge him purely by his selfishness, but also by the movement he led and the results attained.¹⁸ This is not to minimize his personal conduct. He was selfish; but it was not his selfishness alone that led him to overrun all Europe. His egotism was subject to all sorts of social influences, among which may be counted national aspiration. The French in those days were utilizing him for certain definite purposes, for instance, the aggrandizement of France. The establishment of a centralized political order on the basis of social equality, the promulgation of the civil code and the like were quite definite purposes. If these results are desirable, then the conduct of Napoleon, though bad, may be "overruled for good."¹⁹ The same can be said of Alexander and Cæsar. Citing merely the selfishness of these leaders is no ground for denying the idea of some common good, since the directions in which these leaders moved were influenced by that very idea. They may have been wrong in their judgment, but the idea of a common good was, after all, the driving force.

According to Green, there seems to be a prevalent confusion between the state and sovereignty. Since the outward and outstanding characteristic of sovereignty is power, it is generally inferred that the essence of the state is force. But, as has been made clear, the sovereign power, in order that it may remain as such, must be exercised in accordance with what may be conveniently called gen-

¹⁸ Same. P. 133.

¹⁹ Same. F. 134.

✓eral will. (In other words, it must be exercised for the maintenance of rights.) It would be altogether meaningless if considered in the abstract, that is, apart from the state. [It is the supreme law-making and law-enforcing power, to be sure, but it is such a power only when exercised in and over a state. And it is, after all, the state that makes sovereign and not sovereign that makes the state.] A slave owner may have all the supreme power over all his slaves, but he can not be styled a sovereign. A sovereign may indeed alter his laws, but he can only alter them according to law, that is, according to higher law. If he fails to do that, he can not remain sovereign. It seems, then, necessary to ascertain what a state is.

✓ According to Green, "it is a mistake, then, to think of the state as an aggregation of individuals under a sovereign; equally so when we suppose the individuals as such, or apart from what they derive from society, to possess natural rights, or suppose them to depend on the sovereign for the possession of rights. A state presupposes other forms of community, with the rights that arise out of them, and only exists as sustaining, securing and completing them. In order to make a state, there must have been families of which the members recognized rights in each other; there must further have been intercourse between families, or tribes that have grown out of families, of which each in the same sense recognized rights in the other. The recognition of a right being very short of its definition, the admission of a right in each other by two parties, whether individuals, families, or tribes, being very different from agreement as to what the right consists in, what it is a right to do or acquire, the rights recognized need definition and reconciliation in a general law. When such a general law has been arrived at, regulating the positions of members of a family towards each other and the

dealings of families or tribes with each other; when it is voluntarily recognized by a community of families or tribes, and maintained by a power strong enough at once to enforce it within the community and to defend the integrity of the community against attacks from without, then the elementary state has been formed."²⁰

✓ Force may have been a necessary factor in the maintenance of rights, but it is only a factor and as such it is subordinate to right. "There is no right but thinking makes it so";²¹ none that is not derived from some idea that men have about each other. Nothing is more real than a right; yet its existence is purely ideal, if by ideal is meant that which is not dependent on anything material, as existing solely in consciousness. It is to these ideal realities that force is subordinate in the creation and development of states.

It will be seen that Green is fighting against two theories at the same time. In the first place, he shows that sovereignty can not create rights, for it implies them. Secondly, he painstakingly points out the futility of basing political obligation on the theory of consent. In this connection he denies the existence of natural rights prior to the formation of society, and declares that the individual has no right against the state merely because it does something against his own inclinations.

Such a position as Green takes renders him a good deal of an absolutist. And he may be, to a certain extent, but his theory is certainly not so sweeping as it may sound. When one speaks of an individual's right against the state, one has to ascertain first what he means by right. As has been a number of times repeated, a right is, in Green's thought, a necessary condition for an individual to realize

²⁰ Same. P. 139.

²¹ Same. P. 140.

a moral ideal. It involves on the part of the individual a claim of a capacity to advance the common good, to identify it as his own, and it involves on the part of the society a recognition of such a claim. A right is therefore essentially social, since its important element is the recognition ✓ by the society. It exists only relatively to a common good. ✓ If the state passes a law for the common good, there is no right on the part of the citizen to resist it merely because it is against his own inclinations. That does not ✓ mean that the individual has no right to resist for any reason whatsoever. The ground for the resistance to the ✓ state must be the same as the ground for the existence of the rights of the individual, that is, resistance must be on social grounds and on the ideal of common good.

CHAPTER V

THE PRINCIPLE OF STATE INTERFERENCE

In the preceding chapters it has been shown that Green disapproved both the absolutist theory that rights are granted by the sovereign power and the prevalent theory that government is based on the consent of the governed. Further, we have noted his conclusion that, while coercive force may be an occasional manifestation of sovereign power, it is, after all, the will that forms the basis of the state. In the present chapter, it is the aim to set forth the principles upon which political actions are based. In other words, the earlier chapters deal with the principle according to which the individual obeys, and the present chapter deals with the principle according to which the state acts. It may be said that they are different directions proceeding from the same principle, for both are related to the moral ideal and the conception of a common good. It is on moral grounds that individuals obey and it is to maintain conditions under which moral life becomes possible that the state acts. But while there is an identity of source, there is really no identity in the intrinsic nature of the two. Political obligation on the part of the individuals may be and is a moral duty, but interference on the part of the state is not in itself a moral act. "There is," in Green's words, "a moral duty in regard to obligations, but there can be no obligation in regard to moral duties."¹ For the sake of clarity, a separate treatment seems to be

¹ *Principles of Political Obligation.* P. 34.

warranted. This is especially necessary, since in dealing with the different topics, Green does not himself distinguish the two principles involved.

Before proceeding to the principle of state interference, let us first recall to our minds the idea of our moral life. In Green's words, "the condition of a moral life is the possession of will and reason. Will is the capacity in a man of being determined to action by the idea of a possible satisfaction of himself. An act of will is an act so determined. A state of will is the capacity as determined by the particular objects in which the man seeks self-satisfaction; and it becomes a character in so far as the self-satisfaction is habitually sought in objects of a particular kind. Practical reason is the capacity in a man of conceiving the perfection of his nature as an object to be attained by action. All moral ideas have their origin in reason, i. e., in the idea of a possible self perfection to be attained by the moral agent."²

But ideas are not ordinarily shaped in the abstract expression embodied in the above statement. That expression can only be arrived at upon analysis of concrete experience. There is a sort of primitive or, later on, a sort of conventional morality which is instrumental in the historical development of mankind. That morality is, in the Hegelian sense, embodied in the laws, customs and institutions³ which help human beings in their struggle for improvement. Only when they have gone through a process of actual self-improvement can the idea of self-perfection find its abstract expression. This does not mean that the moral ideal is derived from experience, since the possibility of experience involves an idea from which all other ideas of morality proceed. It does mean that the

² Same. P. 31.

³ Same. F. 32.

original ideal can not find its expression without having the other ideas embodied in the social institutions. That is, higher morality is only capable of expression after conventional morality attains concrete reality. When Green speaks of will and reason and perfection, it must be understood that it is morality in the higher sense that he means.

Morality in the higher sense, however, is incapable of enforcement.⁴ Moral duties can not be enforced by law. Moral duties are indeed duties to act, and actions, to be sure, are capable of legal enforcement; but moral duties are duties to act from a certain disposition and for a certain motive, both of which are incapable of enforcement. In fact, if moral duties are actually enforced, they lose their moral quality, since they lack the necessary disinterestedness of disposition and motive. The province of political action is therefore not morality. It only covers outward or external acts. Rights and obligations, whether as ideal or actual, are distinct from morality in the proper or higher sense. However, political action, moral ideal and rights are really related to each other. In fact, without moral ideal, rights are superfluities, as we have already seen from Green's theory of natural rights. "Nothing but external acts can be matter of 'obligation' (in the restricted sense); and in regard to that which can be made matter of obligation, the question what should be made matter of obligation—the question how far rights and obligations, as actually established by law, correspond to the true *jus naturae*—must be considered with reference to the moral end, as serving which alone law and obligations imposed by law have their value."⁵

Should laws be strictly limited to external act? And after all, what is meant by an external act? It must be

⁴ Same. P. 34.

⁵ Same. Pp. 34-35.

remembered that when we are punished we are not merely punished for our external behavior. Much else is involved. When a man kills somebody unintentionally, he is charged with manslaughter, but if he kills intentionally, he is charged with murder and is punished more severely. In other words, intention from within is just as much a subject of punishment as the external action. It may indeed be argued that intention and action are inseparable, that without the former the latter can not be. When we say that something is done against our will, according to Green, we generally mean any of the following situations. First, an act may be done by someone using my body as a means through force. There is an act, but it is certainly not mine. Second, an act may be caused by a natural event through the instrumentality of my body doing damage to some one else. Third, an act may be done by the influence of a strong inducement, though it is done against a very strong wish. In the last case, however, it is indeed an act but it is no longer an act against my will. It is therefore evident that in punishing outward acts, intention is likewise punished, for without intention on the part of some one there can hardly be an act that deserves severe punishment.

But if action necessarily includes intention, what is the sense in calling it external as if it were divorced from all intention? According to Green, "an external action is a determination of will as exhibited in certain motions of the bodily members which produce certain effects in the material world; not a determination of the will as arising from certain motives and a certain disposition."⁶ What the law does is to prohibit certain determinations of will as exhibiting certain physical motions affecting the mate-

⁶ Same. P. 36.

rial world. It may present a motive for its being obeyed, for it is capable of exciting fear in the individual. But motive in this connection is really unimportant; for law requires primarily conformity and conformity can be attained irrespective of motives. If an act is performed as is required by law without inducement of any sort, the purpose of the law is satisfied. If an act forbidden by law is refrained from without the fear of consequences of disobedience, the law is as well satisfied as if there were such an element of fear. In a word, motives are not concerned; the business of law is "to maintain certain conditions of life—to see that certain actions are done which are necessary to the maintenance of those conditions, others omitted which would interfere with them. It has nothing to do with the motive of the actions or omissions on which, however, the moral value of them depends."⁷ Legal obligations can only be obligations to do or not to do a certain thing, but not duties of doing or not doing from a certain motive or with a certain disposition. The question is not whether or not law should be limited to outward acts. It can not be otherwise; for with all the weapons it has at its command, it is incapable of enforcing moral duties.

The problem needs further consideration, for outward or external acts can not stand by themselves. What kind of external acts should be made subjects of state interference? Green's answer is that "those acts only should be made subjects of legal injunction or prohibition of which the performance or omission, irrespective of the motive from which it proceeds, is so necessary to the existence of a society in which the moral end can be real-

⁷ Same. P. 37.

ized, that it is better for them to be done or omitted from that unworthy motive which consists in fear or hope of legal consequences than not to be done at all.”⁸ There are actions and omissions which should be made legal obligations, and when once made legal obligations they serve a certain moral end. “Since the end consists in action proceeding from a certain disposition, and since action done from apprehension of legal consequences does not proceed from that disposition, no action should be enjoined or prohibited by law of which the injunction or prohibition interferes with actions proceeding from that disposition, and every action should be so enjoined of which the performance is found to produce conditions favourable to action proceeding from that disposition, and of which the legal injunction does not interfere with such action.”⁹

No effort is made to paraphrase Green's language here for fear of losing the actual and the exact idea. This, then, is the principle of state interference. Because political action is a complex phenomenon, such a principle can only be stated in general terms. Specific difficulties there are. Situations vary and circumstances differ, but the principle is capable of giving real guidance. Whatever may have been the development of law in the past, this should be the rule for the future.

We have stated the principle according to which individuals obey and the principle according to which the state acts. It may be asked whether, after the state has acted, it is always the duty of the individuals to obey.

This question has been touched before, but it must be admitted that it could only be answered in general terms.

⁸ Same. P. 38.

⁹ Same. P. 38.

According to Green, “so far as laws anywhere or at any time in force fulfill the idea of a state, there can be no right to disobey them; or there can be no right to disobey the law of the state except in the interest of the state, that is, for the purpose of making the state in respect of its actual laws more completely to correspond to what it is in tendency or idea, that is, a reconciler and a sustainer of rights that arise out of the social relations of men.”¹⁰ Accordingly no one can resist the state merely because his freedom of action has been obstructed, or because the management of his own affairs has been interfered with, or because he is not allowed to do as he likes with his own.

A prevalent fallacy is that whatever is permitted is taken to be a right. But there can be no right in that sense. Spitting in public was once permitted and probably taken as a right, but when it became generally recognized as detrimental to the health of the community, the state was perfectly justified in prohibiting it, and there can not be any justification whatsoever for resisting the state on that account. Drinking alcoholic liquors will probably come under the same category. Individuals can only spit and drink when the social judgment permits, but when the social judgment concludes that spitting and drinking are positively detrimental to the common good, individuals have no right to disobey.

But the social judgment may, from the individual's point of view, be mistaken. He may claim that a law enacted is based on a mistaken or an imperfect view of the common good, and therefore he may claim justification for resistance. Green admits that one may differ with the wisdom of social judgment, but he denies anyone the right to resist the state without having his views shared by his

¹⁰ Same. P. 147.

fellow citizens and implicitly acknowledged by them as conducive to the common good. One has a right to resistance only when either some action or some forbearance is implicitly acknowledged by society as conducive to the common good, but explicitly denied or ignored by the state.¹¹

Take, for instance, the case of slavery. Suppose that in a state where slavery is legally permitted, a law is passed prohibiting the education of slaves, has the citizen no right against such a law? As a general rule even bad laws ought to be obeyed, for disobedience is often more detrimental to the common good than bad laws. "But there may be cases in which the public interest . . . is better served by the violation of some actual law. It is so in regard to slavery when the public conscience has come to recognize a capacity for right . . . in a body of men to whom legal rights have been hitherto refused, but when some powerful class in its own interest resists the alteration of the law. In such a case the violation of the law on behalf of the slave is not only not a violation of the interest of the violator; the general sense of right on which the general observance of law depends being represented by it, there is no danger of its making a breach in the law-abiding habits of the people."¹²

It is argued by some that a certain condition is here assumed which helps to evade the real difficulty. The really difficult question is what is to be done when no recognition of the implicit rights of the slaves can be elicited from the public conscience? Is there, then, any justification for resistance?

This question, it will be noticed, can be answered from two different points of view. The slaves themselves have

¹¹ Same. Pp. 148, 150.

¹² Same. F. 151.

rights and obligations arising from social relationships among themselves and with other men. The state may not admit them into citizenship, but it can not deprive them of their social rights. Other men may have claim on them, but the state refusing to recognize their claims has itself no claim on them for obedience. The obligation to obey law does not exist for the slaves.¹³ But the men who are befriending them are in a different position. Unlike the slaves, they are generally under the obligation to obey the law, and if they want to resist it they need social recognition. According to Green, if they fail to get recognition from their fellow citizens, they may get it from the slaves and thus are enabled to proceed with their activity.¹⁴

However, any such attempt at resistance must be handled with care, for the consequences on the political and social fabric may be more detrimental to the public welfare and common good than the wrong which it is the purpose of such resistance to correct. Practically speaking, certain cautions need be considered and certain difficulties overcome.

In a case where the legal authority of a command is doubtful, it is advisable, according to Green, to regard right in the political issue as not yet formed, and sovereignty as in abeyance. The individual, then, should join the side whose success seems most likely to work towards a common good. Where a vicious law is passed without means of legal amendment or repeal, resistance to authority is not only of right but also of duty.

Resistance to authority is not a matter of majority or minority. Majority has no right to resist merely because it is a majority not in power, neither is minority prevented from resisting merely because it happens to be

¹³ Same. P. 152.

¹⁴ Same. P. 153.

a minority represented or unrepresented in the government. There are distinct cases in which minorities are justified in their revolt even if their chances of success are rather slim. The claim to disobey any particular law needs the general recognition of others in order to render it a right, but it does not necessarily become a right by mere decision of a majority.

It must be said, however, that there are no precise rules to be laid down as a guiding principle for the resistance to despotic governments. Green suggests three questions which may be serviceable in that connection. "A, What prospect is there of resistance to the sovereign power leading to the modification of its character or the improvement in its exercise without its subversion? B, If it is overthrown, is the temper of the people such, are the influences on which the general maintenance of social order and the fabric of recognized rights depend so far separable from it, that its overthrow will not mean anarchy? C, If its overthrow does lead to anarchy, is the whole system of law and government so perverted by private interests hostile to the public, that there has ceased to be any common interest in maintaining it?"¹⁵

¹⁵ Same. P. 118.

CHAPTER VI

APPLICATIONS OF THE PRINCIPLE OF STATE INTERFERENCE

After having stated the principle of state interference in theory, it remains necessary to inquire into its application in practise. One of the hardest problems in political philosophy is the reconciliation between the individual and the state, between liberty on the one hand and law on the other. This problem is the result of the traditional conception of both liberty and state interference. If liberty is considered as the absence of restraint and state interference is considered as a restraint, then they are necessarily opposed to each other. Green's idea is totally different. Having discussed at length his principle of state interference, we shall present his conception of freedom so as to ascertain the way in which the two are reconciled. Green prefers the term freedom to liberty; probably the word freedom is more adequate in ethics and his conception of freedom is essentially ethical.

It has been shown in the chapter on Metaphysical and Ethical Background that in intelligence man is a "free cause." In willing he is a free man. [He is free in the sense that he is not subject to the determination by the external forces. He is self-determined; and in that determination in which he is himself both the subject and object, there is no "necessity" but freedom.] With a free

will he is capable of moral action; and with his freedom in intelligence he is capable of creative effort. With his faculty of reason he conceives the idea of good. With his consciousness of a unity of himself and others he is capable of good will and the idea of common good.

The above, then, is the basis of freedom. It contains

all the elements contrary to the traditional conception of liberty. That conception is merely a negative one; that is, liberty means absence of restraint, of compulsion and ✓ obstruction. Green's conception of freedom is positive. ✓ It is not the absence of restraint. It is not to do as one likes, irrespective of what others like. It is not an instrument used by one man or one class of men at the expense of the others. It is "a positive power or capacity of doing or enjoying something worth doing or enjoying, and that, too, something that we do or enjoy in common with others."¹ The whole passage following is worth quoting. "When we measure the progress of society by its growth in freedom, we measure it by the increasing development and ✓ exercise of those powers of contributing to social good with which we believe the members of the society to be endowed; in short, by the greater power on the part of the citizens as a body to make the most and the best of themselves. Thus, though of course there can be no freedom among men who act not willingly but under compulsion, yet on the other hand, the mere removal of compulsion, the mere enabling a man to do as he likes, is in itself no true contribution to true freedom."²

If the above is a true account of freedom, then freedom in all forms of doing as one wills is only as a means to an end, and that end is freedom in the positive sense, the

¹ Works, Vol. III, p. 371.

² Works, Vol. III. P. 371.

liberation of all powers of all men for the social good. No one has any right to do as he likes, if what he likes ✓ and does is detrimental to this end. With such a conception of freedom, Green can not be expected to remain an individualist as far as political action, that is, as far as state interference, is concerned.

Let us take freedom of contract and discuss in turn the different topics involved. It should be remembered that Green was writing in a period the legislation of which was characterized by Professor Dicey as collectivist. The spirit of the age must not be ignored. There has been much legislation interfering with the freedom of contract and yet meeting the approval of the liberals who in days gone by stood for freedom of contract against restraints. There is therefore an inconsistency somewhere between the earlier attitude and the later one.

According to Green, the attempt to interfere with freedom of contract in the late seventies is essentially the same as the earlier attempt to remove the restraints from freedom of contract. In the early days the liberals fought the fight of reform in the name of individual liberty against class privilege. They are at the time of Green's writing fighting the same battle of reform for social good in a different name and under a different banner, but the object of the reformers is the same. As far as contract is concerned, the early efforts to remove its restraints and the later efforts to interfere with its conditions of operation have the same effect of enhancing the freedom of the contracting parties, if we bear in mind the meaning of freedom just defined. We will examine into the concrete circumstances of the contracting parties so as to ascertain whether state interference is justifiable.

As regards public health and sanitation, the state has

passed laws and ordinances compelling people to conform to certain healthful conditions of living. Education in England at the same time has been made compulsory, though the plan was to be carried out only gradually. Factory legislation was started somewhat earlier, but the earlier attempt was far from being satisfactory, neither was it effectual. The early regulations applied to the cotton industry alone and even there the enforcement was quite loose. They aimed for one thing at limiting the hours of labour for children as well as for young persons. Gradually, however, these regulations became enforced and even extended to other industries, and the limitations of hours formerly applicable to children only were made to cover also women laborers. By the seventies those regulations were extended to most industries and were rigidly enforced. The regulation of the hours of labour, important though it is, is not, according to Green, the whole industrial problem. The conditions of labour, the installation of safety appliances and other measures of securing safety and health should be subject to legislation. They are the legitimate objects of state interference. State interference in such cases can not be objected to on the ground that it interferes with freedom of contract, for freedom in the correct sense does not mean absence of regulation.

State interference with freedom of contract is indeed not to serve moral purposes directly. That is beyond the function of the state; but it has the duty to maintain conditions under which alone human capacities can be liberated and morality may become possible. There are some who always have an enormous amount of confidence in human nature. They think people ought to be left to themselves. Industrial conditions may not be desirable, but the people, they argue, are not dummies. Left to them-

selves, to their own resources, they would of themselves awaken to the realization that reform is necessary, and, in that case, reform is a voluntary act. The instinct of self-preservation is capable of taking care of itself without the help of legislation. But Green says we must take people as we find them.³ Many, to be sure, are capable of taking care of themselves, but others are not. State interference is not a burden to the conscientious and self-relying man, but it is a decided help to those who happen to be in less favourable circumstances.

The objections raised against state interference seem to Green to have missed the point. Some of them, indeed, were based on a sort of individualistic philosophy, but others were directed against something quite different from state interference as such. Some people ridiculed the so-called "grand-motherly government," but what they objected to was centralization more than anything else. There was, as a matter of fact, a tendency to centralize, to turn over municipal and local government business to the central government. This tendency has its defects as well as its merits. One can, however, approve or disapprove centralization without giving any satisfactory reason against state interference. It is one question whether the central government is unnecessarily invading the legitimate area of local governments and quite another whether the state is unnecessarily interfering.

The term freedom of contract has its chief significance in connection with industrial and commercial enterprise. Because it is a part of the property rights, it is closely interwoven with the present economic order. What more important problems in that economic order are there than the relations of land, labour and capital? Green is hostile to land, friendly to labour and capital.

³ Works, Vol. III, p. 375.

Property, as has been pointed out, in the chapters on the principle of political obligation, has a rational justification. ✓ According to Green, it is necessary to the free life and to the fulfilment of our moral ideal. He realizes that accumulation of property by a few men, when it becomes excessive, may lead to disastrous consequences. However, the blame is not properly chargeable to the institution of private property as such, but rather to its incidents or accidents. The existence of a proletarian class is not necessarily connected with the institution of private property; ✓ for we must bear in mind that the increased wealth of one man does not automatically mean the decreased wealth of another. Wealth is not a given stock of which a large part can not belong to one without taking away a share that should go to another. On the other hand, it is every day increasing in proportion to the surplus of production ✓ of new wealth over the amount necessary for consumption in the process of production.

It is true, according to Green, that wherever industries congregate, there also one will find large numbers of cheap labourers, untaught, underfed and quite incapable to freely contract. They have no intention to save, or if they have the intention, they have nothing to save from, since they live from hand to mouth. They seem to breed and actually do breed in many cases according to the Malthusian formula, without consideration as to the possibility of bringing these young visitors into proper environment and education. But their condition, deplorable as it is, is not necessarily the result of private property as an institution. They are traceable, at least in England, to two causes.⁴ In the first place, when capital was applied to mining or manufacture or any other industry, it attracted and absorbed men who

⁴ Principles of Political Obligation. P. 226.

were either themselves serfs or descendants of those who were trained in serfdom. Their life was one of forced ✓ labour, relieved by church charity or poor law. They were always dependent, with no sense of responsibility, and incapable of taking care of themselves. The landless people of the past were the fathers of the proletarians of the nineteenth century. Secondly, this deplorable condition of the working class is due to the fact that privileges have been granted to the land-owning class which are incompatible with the principle on which property rights rest. However, this will be referred to later.

As far as we can see, Green does not condemn capital. In fact he has very little positive idea about wealth as capital. But judging from his broad principles, we may safely conclude, that if concrete evidence of the crushing nature of capitalism should be offered, he would be quite open to conviction. When convinced, he would probably denounce it as severely as he attacked the particular kind of land ownership.

He was friendly to labour. The following passage will make his position clearer than I can state it in my own words: "Labor, the economists tell us, is a commodity exchangeable like other commodities. This is in a certain sense true, but it is a commodity which attaches in a peculiar manner to the person of man. Hence restriction may need to be placed on the sale of this commodity which would be unnecessary in other cases, in order to prevent labor from being sold under conditions which make it impossible for the person selling it ever to become a free contributor to social good in any form. . . . Society is, therefore, plainly within its right when it limits freedom of contract for the sale of labor, so far as is done by our laws for the sanitary regulations of factories, workshops,

and mines. It is equally within its right in prohibiting the labor of women and young persons beyond certain hours. If they work beyond these hours, the result is demonstrably physical deterioration; which, as demonstrably, carries with it a lowering of the moral forces of society. For the sake of that general freedom of its members to make the best of themselves, which it is the object of civil society to secure, a prohibition should be put by law, which is the deliberate voice of society, on all such contracts of service as in a general way yield such a result.”⁵

In a later passage, he urges state intervention in behalf of labour, not trusting to leave it to itself. “Left to itself or to the operation of casual benevolence, a degraded population perpetuates and increases itself. Read any of the authorised accounts, given before royal or parliamentary commissions, of the state of the laborers, especially of the women and children, as they were in our great industries before the law was first brought to bear on them, and before freedom of contract was first interfered with in them. Ask yourself what chance there was of a generation, born and bred under such conditions, ever contracting itself out of them. Given a certain standard of moral and material well being, people may be trusted not to sell their labor, or the labor of their children, on terms which would not allow that standard to be maintained. But with large masses of our population, until the laws we have been considering took effect, there was no such standard. There was nothing on their part, in the way either of self-respect or established demand for comforts, to prevent them from working and living, or from putting their children to work and live, in a way in which no one who is to be a healthy and free citizen can work and live. No doubt there were many high-minded em-

⁵ Works, Vol. III, p. 373.

ployers who did their best for their work people before the days of state interference, but they could not prevent less scrupulous hirers of labor from hiring it on the cheapest terms. It is true that cheap labor is in the long run dear labor, but it is only in the long run, and eager traders do not think of the long run. If labor is to be had under conditions incompatible with the health or decent housing, or education of the laborer, there will always be plenty of people to buy it under those conditions, careless of the burden in the shape of rates and taxes which they may be laying up for posterity. Either the standard of well-being on the part of the sellers of labor must prevent them from selling their labor under those conditions, or the law must prevent it. With a population such as ours was forty years ago, and still largely is, the law must prevent it and continue the prevention for some generations, before the sellers will be in a state to prevent it for themselves.”⁶

As far as land is concerned, Green speaks without reserve. In connection with the existence of a proletarian class, he has pointed out that privileges have been granted to landlords that are incompatible with the true principle upon which property rights are based. No one has the right to do what he likes with his own, especially if what he has as his own happens to be land. Land, like labour, is not a commodity in the ordinary sense. “It is from the land or through the land that the raw material of all wealth is obtained. It is only upon the land that we can live; only across the land that we can move from one place to another.”⁷ “It is just as much an original natural material necessary to productive industry as are air, light and water, but while the latter from the nature of the

⁶ Works, Vol. III, pp. 376-377.

⁷ Works, Vol. III, p. 377.

case can not be appropriated, the earth can be and has been."⁸ The only justification for this appropriation is that it is used towards contributing to social good. That justification disappears when appropriation of land does not serve this purpose. Landowners have been given too much privilege in the past. They were permitted to do what they liked with their own, even if what they actually did decreased productive capacity, endangered the health of the farmers and increased their misery and poverty. Misery and poverty of the farmers affect the public welfare. The state in the interest of public freedom which it is its business to maintain can not allow the individual owner to deal as he likes with his land to the same extent as it permits him to deal with other commodities that he may happen to own.

One of the practical aspects of the land problem is the bad system of settlements. Under that system, the land invariably goes to the eldest son. It has at least two bad effects. First, it prevents the division of an estate into a number of small holdings. Here Green seems to uphold one of the traditions of Jeffersonian democracy; for he unhesitatingly declares that the small proprietors who till their own land are the mainstay of social order. Second, it keeps land in the hands of persons who are too much burdened by personal as well as family debts and therefore unable to improve the land in any way. As a result, land is not half as productive as it ought to be, given the necessary improvements. Various remedies have been suggested, but they do not solve the problem. The problem will not be solved as long as this system of settlement remains in force. It is against public interest to permit landowners to transfer property in such a way as to pre-

* Principles of Political Obligation. P. 227.

vent improvement. If property is not used according to the principle upon which alone property can be justified, then state has every right to step in. In this case, then, state should withhold legal sanction from the kind of land settlement under discussion.

The relation between landlords and tenants demands attention. Generally speaking, freedom of contract should be allowed so as to facilitate any voluntary action for good and the initiative of the citizens to fulfil their moral ideal in the positive sense. But Green's warning is that we must not sacrifice the end to the means. There are certain contracts which affect public convenience, but in respect to which the contracting parties directly concerned are not capable of taking public interests into consideration. Such contracts ought to be invalidated by law. Take, for instance, the agreement between landlords and tenants reserving game grounds for the former. It involves the reservation of large tracts of land for no other purpose than that the landlords may occasionally hunt. Hunting is not of itself objectionable, but in this particular case it takes away agricultural land from legitimate agricultural purposes. Not only do landlords make reservations, but they can and often do prevent land from cultivation so that there might be a forest in its stead for their amusement. The tenants who are used to such treatment by their superiors will generally enter any agreement by mere force of habit. But again, it is not a matter that affects the farmer alone. Public interests are also at stake. The country can not afford to see good land for food production turned into a game resort or a sort of garden for mere amusement of a few. In this case, again, the state finds it necessary to resort to interference.

Individualists always claim that, left to itself, everything will be all right. The farmers will in time be con-

scious of their own interests, and the landlords will be enlightened enough to take public interests into consideration. Perhaps this will happen. Green wishes that it might, but derives from the facts the conviction that it will not. The great majority of English farmers can be turned out without compensation at six months or a year's notice. Under such conditions, farming does not attract sufficient capital for improvement, since landlords are spendthrifts and tenants can be kicked out at any time. Best farming is generally done where there is a lease, and the worst farming is generally done where tenancy relies upon the honour of the lords. It is true that a good landlord is as good as, if not better than, a lease, but not all of them are good, and if any one is good, he is not immortal. Agriculture can not be made dependent upon the whims of a few. In order to secure proficient use of land, the farmers need protection, so that necessary capital may as a result be directed towards agriculture. When such a problem confronts the state, the state must take people and situation as it finds them to be and must act accordingly. In this case the state can not wait, since the subsistence of the population depends upon its action.

As to the complete and comprehensive programme in regard to land reform, Green does not say anything definite. Conditions vary in different places, hence any hard and fast plan can not be formulated. However, we are sure that he does not believe in either single tax or the confiscation of unearned increment. To him "the great objection is that the relation between earned and unearned increment is so complicated, that a system of appropriating the latter to the state could scarcely be established without lessening the stimulus to the individual to make most of the land, and thus ultimately lessening its serviceableness to society."⁹

⁹Principles of Political Obligation. P. 229.

CHAPTER VII

APPLICATIONS OF THE PRINCIPLE OF STATE INTERFERENCE (Continued)

The greatest and the obvious interference with free life in history as well as at the present time is certainly war. However German his ideas may be in other respects, Green's idea of war is far from being Teutonic. War, he says, is a violation of the right of life, even if it should not be considered as "multitudinous murder." It is not murder in either the legal or the moral sense. It is not legal murder because murder is unlawful killing and war is lawful killing, if by lawful is meant conforming to man-made laws. Neither is war a "multitudinous murder" in the strict moral sense; for, taken in that strict sense, murder necessarily involves ill will between those killed and those who do the killing. In war there is no particular personal ill feeling. Again, a murder, as generally understood, involves the violation of determinate person or persons. It generally implies that a scheme has been planned by a murderer who is responsible for the murder. But there can hardly be any definite person or persons who may be said to be entirely responsible for any war. No doubt there are wars in which one or a few determinate persons is or are especially blamable, or at least more so than others, but they can not have willed a war as a murderer is capable of willing someone's death.

They are not murderers in the strict sense, however selfish they may be. However wrong or disastrous war may be, it is not murder.

But the above statement should not be taken to mean that war is not a violation of the right to life. It is.¹ And it can not be argued that because there is a lack of intention on the part of one soldier to kill any particular enemy, there is, therefore, no ground for characterizing war as a violation of the right to life; for killing in war is caused by human agency and is on the whole intentional in the sense that it is preventable but not prevented. It matters not whether any particular soldier has a definite intention to kill any one in particular he is violating the right to life just the same. Nor does it avail to argue that in killing another, one soldier is just as irresponsible as the lightning that occasionally takes its tolls from among mankind; for in the latter case no right is involved. There is no human relationship between man and lightning, neither is there any mutual claim and recognition. If there is no right involved there certainly can not be any violation of right.

Modern warfare admits both the method of conscription and voluntary service. If a man volunteers to the colours, he takes the chance of being killed on his own initiative, and therefore has given up his right to life of which there can not be any violation. It is argued that he is in the same position as a man who works in a dangerous mine for a certain wage. The answer is, that if both—the volunteer and the miner—are killed, the right to life is violated in both cases. The right to life can not be voluntarily given up in either case; for it always involves both the individual claim and the social recognition.

¹ Principles of Political Obligation. P. 162.

Society has an interest in the right to life which the individual representing one party can not disregard.² The same is true of industrial work. If a man works in a dangerous pit and is killed, there is a violation of the right to life, no matter whether the man works voluntarily or not. War is therefore no less wrong when a soldier volunteers to fight. Besides, whatever system may be adopted by the state, whether conscription or voluntary service, there is always an element of compulsion.³ Conscription is of course compulsory. Though under a system of voluntary service there is not compulsion exerted on particular persons, yet there is an element of compulsion in the fact that the state decides on war and compels a certain number of lives to be deprived. After all, then, war is a violation of the right to life.

It may yet be argued that war is justifiable in case of self-defense. The right of life, it may be said, is important, but there are yet more precious things at stake when one is subject to unprovoked attack. The existence of society and of state guaranteeing the whole system of rights and obligations is more important, it is often urged, than the maintenance of the particular right to life. Hence war in the defense of society and of the state has justification in the greater purpose it serves, even if in serving that purpose, it results in killing.

Green answers that this argument is really not to justify war *per se*, but rather to remove blame from those who resort to it for the purpose of defense.⁴ As a matter of fact, we are only told that the state in sending soldiers to the field may be compelled to do so against its will, hence responsibility for destruction of life and property is not

² Principles of Political Obligation. P. 163.

³ Principles of Political Obligation. P. 163.

⁴ Principles of Political Obligation. P. 164.

chargeable to those who have no other alternative than to resort to force. But war is not a natural recurring phenomenon that can not be avoided. It has come about through human effort and human energy. If one party is exempt from blame, some other party is not. War as a violation of the right to life is none the less wrong even if the blame is transferred from one party to another. Thus a war for the defense of freedom, or for liberation, or for the existence of a nation is just as wrong as anything that violates the right to life, but it is a wrong chargeable not to defenders but to the aggressors. Historically the records are most disappointing. Few wars in Green's opinion can be said to be waged for the purpose of political liberation. Most of the wars are waged for the purpose of aggrandisement, brought out by personal jealousies and dynastic ambitions. With the growth of nationalism, patriotism has taken place of dynastic loyalty. Somehow or other, the fallacious notion that advantage to one nation is always a disadvantage to some other nation has been generally accepted by people at large, and as a result all nations are at potential if not actual warfare with one another.

War is wrong no matter who is blamable for it. It is wrong whatever may be the result. That there are good results arising out of war Green does not deny, but the claim that they transform the character of the war Green can not concede. "Wrong doing is a voluntary action, either proceeding from a will uninfluenced by the desire to be good on the part of the agent, or it is an action that interferes with the conditions necessary to the free play and development of a good will on the part of the others."⁶ "If an action, so far as any results go which the agent can have in view or over which he has control, in-

⁶ Principles of Political Obligation. P. 167.

terferes with conditions necessary to the free play and the development of a good will on the part of others, it is not the less wrong doing because, through some agency which is not his, the effects which he intended, and which rendered it wrong doing, come to contribute to an ulterior good. Nor, if it issues from bad will (in the sense explained), is it less wrong (in the moral sense) because this will is itself, in the view of some higher being, contributory to a moral good which is not, in whole or in part, within the view of the agent. If then war is wrong doing in both the above senses . . . , it does not cease to be so on account of any good resulting from it in a scheme of providence."⁶ There are probably desirable results from Caesar's wars with the Gauls, from English occupation of distant territories, from German and Italian unification, but incident to these results are also innumerable acts which do not cease to be wrong merely because something good and desirable has been achieved.

War then is a wrong, but is it a wrong that is necessarily inherent in the organization of the nation states? According to Green, there can be no war if the states are in any way organized according to the idea back of them. State according to its idea is an institution "in which all rights are harmoniously maintained, in which all the capacities that give rise to rights have free play given to them."⁷ No state thus organized will ever have any inevitable conflict with any state similarly organized. There is no truth in the notion that the gain of one is the loss of another. In fact the better the states are organized the freer is the scope for the individuals to fulfil their capacities. Consequently much less will be the danger of conflict. War is therefore not inherent in states. Its appear-

⁶ Principles of Political Obligation. Pp. 167-168.

⁷ Principles of Political Obligation. P. 170.

ance is more due to the defective organization of states.

Green gives full consideration to the division of society into different classes of people and the different interests they represent. The familiar division into two dominant classes, the privileged on the one side and the oppressed on the other, he shows to be not a matter of internal politics alone, but one that often gives rise to international conflict. "The privileged class involuntarily believes and spreads the belief that the interest of the state lies in some extension without, not in an improvement of organization from within."⁸ It looks as if right here Green is somewhat prophetic without comprehending the full significance of his prophecy. We now know that the privileged class benefits by national expansion. The militarists want conquest, the merchants want market and the capitalists want industrially undeveloped areas. Their gain is not the gain of the state. The state according to its idea does not and should not involve either a privileged class or a suffering class. The sooner they are removed, the better it is for the state and also for international peace.

It is suggested by some that state is not an abstract formula; it is not a complex of institutions consciously established for the purpose of maintaining and harmonizing rights. It is now generally a nation and all that a nation implies. A nation implies a homogeneous people, possessing peculiar institutions, certain dominant passions and a nationalistic psychology. Nations are now existing in the kind of state of nature in which individuals were once claimed to be living by Hobbes. They are independent and sovereign, and they have only themselves to serve. Since their situations are diverse and their interests conflicting, war is inevitable. It can only be avoided by the establishment

⁸ *Principles of Political Obligation.* P. 171.

of a world empire transcending all the nation states, but that is neither practical nor desirable. It is true Green concedes that states at present are nations and nations at present are not free from egoistic passions. But, he says, there is little occasion for pessimism.⁹ Nations may yet become true states. The more truly the nation becomes the state, the greater the scope for national spirit. National spirit has nothing objectionable if it is directed to worthy objects, and it will be, when states become true in the ideal sense. Other things are also facilitated when states become organized more in accordance with the ideal. Frequent trade and communication and better understanding may eventually produce a consciousness of a social bond between nations so that the demand for justice and peace may eventually speak louder than the bugle of war. When that time comes, this sort of wholesale violation of the right to life may be eliminated.

Another phase of state interference with free life is the right of the state to impose punishment on citizens. Free life on the part of the citizens involves the assumption that every man can freely act to contribute to the social good. The right on the part of the state to punish involves the assumption that it, the state, functions in certain ways to prevent such actions as interfere with the possibility of free activity contributory to the social good. In other words, in exercising the right to punish, the state is trying to maintain conditions under which it may be possible for the citizens to realize their moral capacities. Thus considered, the right to punish as well as the nature of the punishments in detail can not be satisfactorily presented without an examination into the whole system of rights and obligations. For us, it is unnecessary to go into the details

⁹ *Principles of Political Obligation.* P. 179.

of these rights and obligations, since we need only dwell on the broad principles of punishment. There has been frequent discussion as to whether punishments are retributive in nature, or preventive or reformatory. The true conception, according to Green, is that they are all three.¹⁰ The following discussion will therefore consist of three divisions starting with the retributive element in punishment.

At the outset, we have to point out that punishment is incapable of having private vengeance as an element.¹¹ In fact private vengeance, which in popular expression implies taking law into one's hands, is incompatible with the right of punishment vested in a political authority, much less is there a "right of private vengeance." There is a contradiction in terms in that expression. Private vengeance implies an interest purely individual while a right is always social and in that sense also public. Abstract the social recognition and a claim is not a right. Hence the right of punishment on the part of the state does not admit of purely individual interest.

But, it has been asked, is a state capable of the feeling of vengeance at all? If it is so capable, according to Green, it is not so in the same way as the individuals are. France may have felt revengeful toward Germany, but in that case it was against a foreign nation that France felt the feeling of vengeance. Vengeance in the sense of the feeling of one individual towards another, the nation is incapable of. As far as punishment is concerned, if there is the element of vengeance at all, it is in the nature of popular indignation. When a child is murdered the public will likely demand that the criminal should have his due, should be dealt with according to his deserts and be punished "justly."

¹⁰ Principles of Political Obligations. P. 181.

¹¹ Principles of Political Obligations. P. 181.

This leads to the idea of the just and justice. According to Green, the just means "that complex of social conditions which for each individual is necessary to enable him to realize his capacity of contributing to social good."¹² "Justice is the habit of mind which leads us to respect those conditions in dealing with others—not to interfere with them so far as they already exist, and to bring them into existence so far as they are not found in existence."¹³ A punishment would be unjust "if either the act punished is not a violation of known rights, or an omission to fulfil known obligations of a kind which the agent might have prevented, or the punishment is not required for the maintenance of rights."¹⁴ The criminal when justly punished sees the punishment in his own action returning on himself and may as a result become more susceptible of the idea of common and public good. Thus it will be seen that even in this theory of punishment, rights and obligations are the real nucleus from which its justification is derived. And when Green speaks of rights and obligations, it is necessary to bear in mind the moral idea and the idea of common good. It must be understood that the general principle here laid down does not offer a practical guidance in specific cases. In fact, justice in specific cases can not be determined without having a more complete and a more harmonized system of rights and obligations than at the present time. An intentional violation of right must be punished whether that be a true right or not, since such violation endangers the social well-being more than any wrong punishment.

Let us next turn to the preventive nature of punishment. The argument in this case is that whatever has been done

¹² Principles of Political Obligation. P. 188. Footnote.

¹³ Principles of Political Obligation. P. 188. Footnote.

¹⁴ Principles of Political Obligation. P. 186.

is done, and that no amount of punishment will undo the injury caused by the criminal act. What punishment can do is to prevent further occurrences of like sort. Punishment on the criminal produces a terror in society and that terror, it is claimed, has a restraining effect on those who contemplate similar crimes. In order to have the proper quality of preventiveness, it is believed that the greater the crime, the heavier should be the punishment. This Green agrees with, if by heavier punishment is meant that which produces greater terror in popular imagination, and by greater crime is not meant a greater degree of moral guilt.¹⁵ It is a fallacy, he holds, to identify heavy punishment with great pain to the criminal; for that makes the effectiveness of punishment depend upon the amount of pain, and this varies so from individual to individual as to be incapable of calculation. A given punishment may be extremely painful to one without being so to another, since sensitiveness to pain differs with different temperaments, experiences and circumstances, none of which the state or its agent can exactly ascertain. And even if they could be ascertained, since their difference is undeniable, the punishment will be different for different individuals and a general rule for punishment will necessarily be impossible.¹⁶

The fallacy of identifying greater crime with the greater degree of moral guilt is probably a confusion of both the aim and the function of the state. The state has nothing¹⁷ to do with the moral depravity of the criminal and in punishing him it is not counting the effect on him so much as the effect on others who might be tempted to do as he has done. In fact there may be moral depravity of an equal

¹⁵ Principles of Political Obligation. P. 190.

¹⁶ Principles of Political Obligation. P. 191.

¹⁷ Principles of Political Obligation. P. 191.

amount in two criminals, as for instance, the wealthy banker who embezzles and the poverty-stricken tramp who steals, and yet the punishments may profitably be different; for the same preventive effect may be secured by different punishments.

There are other difficulties confronting the attempt to base punishment on moral depravity. In the first place, the degree of moral depravity can not be ascertained. No one can ascertain it for himself, for an action often involves a complexity of good motives mixed with bad ones, and you can not measure the goodness of the good motives just as you can not measure the badness of bad motives. The man himself can not do it, his friends can not do it, much less can a judge or an agent of the state. Secondly, the state has no business to punish wickedness as such. The moment it starts to punish wickedness, immorality or vice, it vitiates the disinterestedness of effort to escape wickedness, immorality or vice and checks the growth of true goodness. To refuse to be wicked for fear of consequences is not the same as to obey disinterestedly the self-imposed laws, which latter alone makes up morality.

It may be argued that crimes committed under the so-called "extenuating circumstances" should be and are generally punished with leniency. The reason claimed to be the determining factor is that such crimes involve less moral guilt, and punishment, being proportionate to the moral depravity of the criminal, is *ipso facto* light. Hence a man who steals a bottle of milk because he has not had food for two days is punished differently from a man who does the same thing because he is in the habit of doing it, or because he is maliciously trying to deprive some people of something. Cases of such circumstances are abundant and practice seems to agree with the theory; but according to Green, while the fact may be true, the explanation is not

correct. If crimes under extenuating circumstances are punished with more leniency than those not under such circumstances, it is not because they involve less moral depravity, but because it needs less unpleasantness and less terror to prevent a like occurrence.¹⁸ In this as well as in other cases, morality or rather moral depravity is not the measure, neither the ground for punishment. It does not mean that punishment has no moral purpose. It is one of the instruments to maintain conditions under which morality may be possible. It also serves the moral purpose of protecting rights the maintenance of which advances the moral well being.

Generally, according to Green, popular indignation or disapproval is founded on the outward aspects of a criminal's conduct, that is, it comes essentially from a response in men to the stimulation which the outward aspects of the criminal act generally afford.¹⁹ It may even be said that if crimes can not and should not be punished according to the degree of moral depravity of the criminal, they should be, if they are not, punished according to the outward consequences of the criminal act. The degree of criminality of the individual depends or should depend upon the consequences of his act, that is, upon the relative importance of the rights he violates; and the more disastrous the consequences, the severer should be the punishment.²⁰ The engine driver who overlooks the signal through carelessness is and should be accused of manslaughter and punished accordingly, though his moral qualities may not be in a worse condition than those of many whose carelessness does not result in such an accident. The difference in punishment can not be accounted for by the difference in kind

¹⁸ Principles of Political Obligation. P. 193.

¹⁹ Principles of Political Obligation. P. 196.

²⁰ Principles of Political Obligation. P. 197.

or degree of the carelessness in the two cases, for it is after all the consequences that ultimately determine the difference. Another example is drunkenness. The man who drinks may not have such moral depravity as intentionally to violate others' rights; but if he does commit a crime the consequences do not become less disastrous merely because he is under the influence of liquor. An intoxicated mother may smother her child by sleeping on it without the least bit of intention to do any harm. None the less she should be punished; for though she has no intention of committing the crime, the condition that causes it is capable of prevention. Punishment in such cases will produce a terror which will make people more careful about drinking and will prevent some accidental violation of the right to free life. It is in connection with the preventive nature of punishment that there is the necessity and actual practice of distinguishing civil injuries from crimes. According to Green, the belief that civil injuries are "violations of rights when considered in reference to the injury sustained by the individual," while crimes are "violations of rights when considered in reference to their evil tendencies as regards the community at large," is quite misleading. Nothing is punishable which does not violate some kind of rights; and since rights are social, any violation of them can not be regarded as merely an injury sustained by the individual. If the injury to the individual is not an injury to the community, it is not a violation of rights and therefore should not be punishable.

The real distinction between crimes and civil injuries comes from the preventive nature of punishments. Civil injuries can not generally be prevented by arousing terror in the public mind.²¹ Let us take for instance the breach

²¹ Principles of Political Obligation. P. 199.

of contract. The party who breaks the contract may not know that he is violating its provisions, and therefore may not be responsible for not knowing that he has violated a right. No amount of terror associated with such a violation of rights will prevent similar violations of rights under given circumstances. It may be argued that even in civil cases, the delinquent party may know his obligations but have no means at his disposal to fulfil them, and therefore punishment in such cases may make him providential; but even here it must be conceded that his inability to fulfil his obligations may not be due to forces of his own making, and, if not, terror as a result of punishment will not improve the ability of people under like circumstances. It is, therefore, from the preventive nature of punishment that there has come to be a distinction between civil and criminal offenses. The actual distinction in English law is more or less an accident.²²

Let us turn to the reformatory character of punishment. Crime involves the violation of rights, but it also involves a violator of rights, namely the criminal. In punishing him, the state may likely forget that he, too, had or will have rights which, though they may be temporarily suspended, are yet his due after serving his term. He must be given a certain freedom of action conducive to an intelligent exercise of rights so that in being punished once, he may not have to be punished twice, and in having served his term, he may not have to meet social ostracism. Capital punishment and life imprisonment can not be justified except on two grounds:²³ first, when public order will be easily endangered, if the crime committed is not associated with the punishment that produces the greatest terror; second, when

²² Principles of Political Obligation. P. 201.

²³ Principles of Political Obligation. P. 203.

the crime is such as to warrant the assumption of a permanent incapacity of the criminal for enjoying and respecting rights. But these conditions are themselves unsatisfactory. Given the condition of the criminal, whether the state has the right to presume his permanent incapacity for rights or not may still be open to doubt. It may very well be that the state is not entitled to such presumption. And certainly it does not call for greater terror to keep public order when public education has attained its present standard and police force its present efficiency. Considering the rights of the criminal as well as those of the rest of the citizens, punishment should also be reformatory, and if so, capital punishment and life imprisonment can not be justified except in extreme cases.

According to Green, "there is no direct reference in punishment by state . . . to moral good or evil. The state in its judicial action does not look to the moral guilt of the criminal whom it punishes, or to the promotion of moral good by means of punishment in him or in others. It looks not to virtue and vice but to rights and wrongs. It looks back to the wrong done in crime which it punishes; not, however, in order to avenge it but in order to the consideration of the sort of terror which needs to be associated with such wrong doing in order to the future maintenance of rights . . . Thus punishment of crime is preventive in its object . . . justly preventive of injustice. But in order to effectually attain its preventive object and to attain it justly, it should be reformatory."²⁴

Human beings are capable of rights, because they are capable of a conception of a common good which each shares with the other. They act not only with an end in view but also with a conception of that end. They are,

²⁴ Principles of Political Obligation. P. 202.

according to Green, performing or seeking to perform self imposed duties; they are moral, and in order to facilitate the realization of their moral ideal, they must be allowed a certain spontaneity of action. The state, instead of actually and actively promoting morality, should devote itself to the task of removing obstacles. Compulsory education and prohibition or temperance are state interferences governed by this principle.

However mystic Green may have seemed to many a student at times, he was not merely a closet philosopher. He was elected to the Oxford Town Council, and expressed his idea of a true liberal program as "the removal of all obstructions which the law can remove to the free development of English citizens."²⁵ On the two subjects that interested him more than anything else, namely, education and temperance, he often got into heated controversy.

As to education, he stood for compulsory attendance, the maintenance of schools out of public funds and unsectarian instruction.²⁶ State interference in education may seem to be an enforcement of moral duties, for education of children is a moral duty. But Green argued, "on the other hand, the neglect of it does tend to prevent the growth of the capacity for beneficially exercising rights on the part of those whose education is neglected, and it is on this account, not as a purely moral duty on the part of the parent, but as a prevention of a hindrance to the capacity for rights on the part of children, that education should be enforced by the state."²⁷ Nor can compulsory education be objected to on the ground that it interferes with the spontaneous action of the individuals; for so far as those parents are concerned who have the rights of their children in view, the

²⁵ Works Vol. III. Memoir CXX.

²⁶ Works Vol. III. Memoir CXXIII.

²⁷ Principles of Political Obligation. P. 209.

law that compels education does not interfere with spontaneity of action. The man who prevents his wife from overwork and sends his children to school instead of factory and does all this of his own will, suffers no moral degradation from a law which would compel him to do so. He does not feel the constraint. And for the parents who are unwilling to educate their children, it may be said that the state seeks to remove the hindrances to the exercise of rights on the part of the children and does not aim at imposing inconveniences on the part of the parents.

The question of the liquor traffic was the one in which Green was drawn into political controversy in 1872 with Sir William Harcourt. In a letter to the Oxford Chronicle he declared that he would not support "a representative who bids for the votes of the politicians by trying to pooh pooh the drinking evil altogether and to run down all the legislative attempts to check it."²⁸ But Green was not originally a total abstainer. His ideas were probably influenced by personal as well as social relations. The disastrous career of his elder brother constantly weighed upon his mind and the conviction that the political morale was being sapped by drink came later to be added to his personal experience. In fact, he spoke quite vehemently of "the untaught and underfed denizen of a London yard with gin-shops on the right hand and on the left."²⁹ At any rate he became an ardent supporter of temperance. In 1872, he joined the United Kingdom Alliance, and later, 1875, he joined also the Church of England Temperance Society.

Green's practical policy in this matter was regulation and limitation but not prohibition. The aim was to devise a process of licensing, to limit liquor traffic to certain hours, and if possible to enable neighbors to exclude liquor

²⁸ Works III. Memoir CXVII.

²⁹ Principles of Political Obligation. P. 8.

✓ establishments from their area through legislation. On what ground, then, can legislation be justified in interfering with this particular traffic? "We justify it on the ground of the recognized right on the part of the society to prevent men from doing what they like, if, in exercising their peculiar tastes, in doing as they like, they create a social nuisance. There is no right to freedom in the purchase or sale of a particular commodity, if the general result of allowing such a freedom is to detract from freedom in the higher sense, from the general power of men to make the best of themselves. . . . Excessive drinking of one man means an injury to others in health, purse and capability to which no limit can be placed. Drunkenness in the head of a family means, as a rule, the impoverishment and degradation of all the members of the family; and the pressure of a drinking shop at the corner of the street means, as a rule, the drunkenness of a certain number of heads of families in that street."³⁰ Such an obstruction to free life must be removed by the authority of the state. ✓ Tolerance of any particular liberty of action implies that liberty is not and must not be an impediment to social good.

Even in connection with liquor, there is the *laissez faire* argument that state interference will not do any good. Leave the people to themselves, and as soon as they know the danger of drinking and as soon as they acquire more self respect, they will give up liquor of their own free will. Giving it up voluntarily is much better than giving it up by compulsion; for in the former you facilitate the spontaneity of action and in the latter you compel obedience merely through fear of consequences. But the trouble is, Green replies, we can not wait. The longer you let liquor go, the greater harm it does and the more difficult it becomes for

³⁰ Works, Vol. III. Pp. 383-384.

the state to interfere. On the one hand, the interests that are fattening themselves through intoxication of drunkards would be more influential, more deep rooted in their foot-hold and much harder to deal with; on the other, intoxication is more or less contagious. Aside from the fact that the friends of a liquor fiend may become themselves victims the scientists claim that offspring from drunkards inherit the tendency to drink, hence, given the liquor, they will readily victimize themselves. Green seems to have such an idea in view and that is why he urges not only legislation, but also speedy legislation to limit liquor traffic.

CHAPTER VIII

GREEN'S INFLUENCE

Turning from Green's theories to the views of his followers and his critics, we need bear in mind that modern tendencies, especially after the war, are away from political idealism. The advancement of science makes possible new approaches to the study of politics. Sociology brings out facts hitherto unknown and therefore not within the compass of political speculation in Green's time. The division of society into different groups with conflicting interests was only vaguely guessed at in the late seventies, but it is now a familiar fact. Modern industrialism has produced several tendencies, none of which subscribes to political idealism. Socialism, or more correctly Marxism, involves economic determinism as its philosophic background. Guild Socialism in England and Syndicalism in France represent a revolt against central authority in politics, but in philosophy they are more affiliated with realism than idealism. The war and its consequences have encouraged radicalism, and radicalism, while speaking in the same old name of freedom and justice, never fails to keep its eye on the cold facts of every day life.

Among scholars who are disinterestedly searching for knowledge, political idealism is also fading. Those who are realistic in temperament are apt to look at facts as they are rather than as they should be. Investigation often shows that what they should be is generally far from being what

they actually are. Therefore, instead of building castles in the air it is considered more profitable to state the actual facts and to suggest possible remedies. Others feel that political idealism deals merely with the conscious and conscientious part of human nature in politics. The subtle psychology of the group as well as of the individual, the subconscious action of human beings, the influence of heredity and environment, the biological and social inheritance of the people are important factors for consideration, but political idealism ignores them all by mere reference to an all embracing and all pervading consciousness.

The above spells doom for Green and his idealism. Such is the case, but it does not necessarily have to be. Two factors need be considered. First, the political philosophy of Green has little, if any, of the absolutism of the German idealist. The foregoing analysis, it is hoped, has made that clear. Therefore it is not exactly correct to identify Green with the idealists of the German type, though he was a thorough-going idealist. A revolt against political idealism is not necessarily a revolt against Green. Second, some of the new tendencies do not necessarily contradict the broad principles laid down by Green. They may qualify, and they may supplement, but they do not necessarily deny the fundamentals in his philosophy. A radical, for instance, may become his follower to a marked extent without ceasing to be radical. The thing to bear in mind, as Mr. Barker has advised us, is the broad principle and not the detailed application. You can no more blame Green for his leniency towards capital than you can despise Aristotle for his justification of slavery. These two considerations explain the fact that although broadsides have been fired against political idealism, Green has not been the target, and although new tendencies have gained ground, Green's influence has not entirely faded away. In fact, of the writers who have

expressed opinions on him, few, if any, reveal any hostility towards him.¹ Disciples and critics alike may qualify and destroy his doctrines in view of the better understanding of social facts, but none the less they admire him for the able formulation of political principles, at least in English, into idealistic philosophical terminology.

The champions of the idealistic school of thought of the present day England are Messrs. Bosanquet and Bradley. Both are more Hegelian than Green ever was. Mr. Bradley believes that the community and the individual are so interwoven that the latter's existence implies a comprehensive system of relationship with the former. (An individual becomes what he is, by including in his being his relationship with society and state.) If morality by definition consists of the realization of the self, it also consists in the realization of these relations with the society. Mr. Bradley believes in a sort of regimentation in society according to which each has his station and therefore also duties, the fulfilment of which constitutes the realization of the self and social relations, that is, constitutes morality. Dr. Bosanquet admits in his "Philosophical Theory of the State" that he follows the footsteps of Green, but that if he has to part company, it is because Green seems to him to have erred on the score of excessive caution rather than carelessness.² And he does part company with Green at many points. He maintains, for instance, that society is within the state. If by state is meant not a mere political mechanism, but a general organization over and above other organizations, it is essentially a community of communities. It is above society. This is already different from Green's

¹ Except H. Spencer, *Essays Scientific, Political and Speculative*. Vol. II. P. 332.

² Bosanquet, *The Philosophical Theory of The State*, Introduction.

point of view, but it leads to a greater and a still more significant difference. Green condemns war as a violation of the rights of life and liberty; to that extent, he argues, the action of the state declaring war is itself wrong and therefore not conducive to the end for which state exists. But Dr. Bosanquet has a different point of view. According to him acts of the state and acts of its agents are to be distinguished, and the terms moral and immoral, properly applicable to the latter, are inappropriate for the former. The state as a state can not act within the relations of private life in which organized morality exists. It "is the guardian of our world and not a factor of our organized moral world."³ It can not be bound by the system of rights and obligations it enforces, nor can it be limited by the social ethics it maintains.

There are two other points of difference which should be mentioned. Dr. Bosanquet writes with the advantage of the new and fashionable theories of the present age. "National spirit," "social mind," and "group consciousness" are more talked about now than in the late seventies and early eighties. Armed with these new weapons, Dr. Bosanquet presents with greater freedom than Green did the conception of general will and the idea of a common good as working instruments. Here he makes use of the progress made by psychology and sociology and in so doing, according to Prof. Barker, he approaches quite near to Hegel. Institutions are regarded as the embodiment of living spirits without which they can not be what they are. Green has the same idea but it is not strained to the same extent. State interference can only apply to the externals; what Green calls the removal of obstructions Bosanquet calls the hindrance of hindrances. State action is, therefore, pri-

³ Bosanquet. *The Philosophical Theory of The State*. P. 325.

marily negative with both, but throughout their works there is discernible a difference of degree of negativity. I mention these differences between Green and Bosanquet not for the purpose of indicating a revolt against the former from among the idealists themselves, but with the view of demonstrating that Green has little in common with the absolutists of the idealistic school of thought. As will be shown later, an idealist is not necessarily an absolutist.

Prof. Fairbrother is an outspoken disciple. In his Philosophy of T. H. Green,⁴ he declares in a prefatory note that Green's philosophy is "perhaps the only complete and consistent philosophy which derives and justifies both moral responsibility in the present and hope for the future from a rigorously scientific metaphysic." With this view in mind, he defended Green from the onslaught of Prof. Seth, Mr. Balfour and Prof. Sedgwick. However, the attack as well as the defence deals so exclusively with philosophy and metaphysics that it is entirely beyond our sphere to examine it.

Prof. Ritchie in his "Principles of State Interference" points out that we can not find out one's attitude in politics from one's philosophical speculation. Green is an idealist in philosophy and a liberal in politics. Hobbes is a materialist in philosophy and an absolutist in politics. Locke is an empiricist in philosophy and a whig in politics. There is no mystery involved in any of the cases. In regard to Green's philosophy, Prof. Ritchie sees a mistake in characterizing it as Hegelian.⁵ As far as he can see, Green's is a correction of Kant by Aristotle and of Aristotle by Kant. In regard to freedom, Mr. Ritchie points out Green's departure

⁴ Fairbrother. *The Philosophy of T. H. Green.*

⁵ Ritchie, *Principles of State Interference.* P. 139.

from the traditional conception. Freedom as is generally understood means a removal or absence of obstruction and as such it is merely negative. But with Green, it is positive, it is the capacity or power to do or enjoy something worth doing or enjoying. Out of this conception of freedom, Mr. Ritchie argues, the principle of state interference can be predicted. The state necessarily has to maintain conditions under which it is possible for the people to do or enjoy that which is worth doing or enjoying. That is, in interfering, the state in its very act of interference is maintaining conditions of freedom. It is evident that Mr. Ritchie is very sympathetic in his comments and towards the end of the book he praises the democratic attitude that Green maintains both in active work and in writings.

Of the six writers whom Mr. MacCunn considers radical, Green is one. The account is on the whole laudatory, though little of it is devoted to political theory. His comparison between Green and Bentham will voice his sentiment more adequately than any effort on my part. "Bentham's philosophy was a fighting philosophy. When it was given to the world, democracy was still an aspiration and a struggle. What democracy needed was a rallying cry rather than a reasoned justification. It found that in Bentham . . . But time had passed. Democracy had won . . . It was when democratic citizenship had become actually and potentially a recognized fact of the first magnitude, when it had passed from struggle to success, from aspiration to fruition that Green . . . began to propound his civic idealism, thereby bringing to citizenship a new dignity and elevation, and it may be added, fresh grounds of confidence and hope. The political philosophy of Bentham at the beginning of the 19th century was still a prophecy. The civic idealism of Green towards the end of the century was the justification of the prophecy ful-

filled."⁶ Many in the present age will refuse to share the optimism of Prof. MacCunn; they will probably deny that democracy as an ideal has already become an accomplished fact.

Prof. Muirhead has a profound respect for Green. In some instances he attributes to Green what the latter would probably hesitate to claim for himself. Clearly Green wrote in a period in which the chief characteristic was said by Prof. Dicey to be collectivism, and the reason why there was not a strong opposition to state regulation at the time when *The Service of The State* (1908)⁷ was published was not entirely due to Green's effort. In regard to socialism, Prof. Muirhead points out that if by it is meant the reality of a social will as a practical working principle then Green is emphatically socialistic. But if by socialism revolution is implied, then Green is opposed to it. He is, as we have already seen, opposed to revolution; for he maintains that the object sought through revolution may not be worth the disorder and probable destruction it entails. To the socialism that seeks to overthrow capitalism Green will undoubtedly also object, since he sees no defect inherent in capitalistic control of private property. Any possible connection between Green and socialism can only be urged with extreme caution. Socialism can not be divested of its economic origin and its economic significance and as such it can not merely mean "the reality of a social will as a working principle."

Mr. Barker has probably given the best account of Green's theory.⁸ He advises us to pay more attention to the general principles than to the analysis of particular doctrines, as, for instance, Green's treatment of capital and

⁶ MacCunn. *Six Radical Thinkers*. Pp. 215-216.

⁷ Muirhead. *The Service of The State*. 1908.

⁸ Barker. *Political Thought From Spencer to Today*.

of unearned increment. He points out that Green combines Greek and German philosophy with English caution. The individual is nowhere overwhelmed. Not only that, but in Green there is also a recognition of the idea of universal brotherhood. The state is limited internally as well as externally. It must have a guiding principle in order to function properly, and that principle, according to Mr. Barker, is better than the one Mill adopted. The distinction of self-regarding and others-regarding acts is false, for they can not be distinguished, while outward acts and inward will can be distinguished and that distinction is a good criterion for state action. While state action is not itself moral, it yet serves a moral purpose. It is to maintain the conditions under which morality may be possible. "If it does not interfere with morality, it is for the sake of morality that it refrains; if it does interfere with external acts, it is also for the sake of morality that it intervenes."⁹

Mr. H. J. Laski permits disagreement of opinions to a remarkable extent; for though he abhors the doctrines of the idealists, he admires their ability, and though he attacks them with all the power he has at his command, he does not hesitate to admit that Green's "Principles of Political Obligation" and Bosanquet's "Philosophical Theory of The State" are the two greatest works in English political theory since Mill's time.¹⁰ While recognizing the differences between Green and the other idealists, Mr. Laski criticises him in the same way as he criticises them; for as far as Green is concerned, it is not what he was, but what he has been understood or misunderstood to be that invites criticism. In other words, it is not Green's doctrines but their consequences that need be corrected. Green, more than anyone else, in Mr. Laski's opinion, is responsible for what

⁹ Barker. *Political Thought From Spencer to Today*. J. 60.

¹⁰ Laski. *Authority in The Modern State*. P. 66. Footnote.

Prof. Hobhouse has called the flowing of the Rhine into the Thames, and is on that account blamable.

But after all Mr. Laski's criticism is more or less centered around the conception of "general will"¹¹ and is by no means a total rejection of Green's theories. The latter's influence is easily traceable in the "Authority in the Modern State." Mr. Laski is one of those who are now "reviving" the doctrines of natural rights. The word "reviving" is misleading; for what is at present termed natural rights is quite different from the "rights" of The Virginia Constitution of 1776, or of the American Declaration of Independence, or of the French Declaration of Rights, and since they are different they need no "reviving." According to Mr. Laski, a right is natural "in the sense that the given conditions of society at the particular time require its recognition. It is not justified on grounds of history. It is not justified on grounds of any abstract or absolute ethic. It is simply insisted that if, in a given condition of society, power is so exerted as to refuse the recognition of that right, resistance is bound to be encountered. By right, that is to say, we mean a demand that has behind the burden of the general experience of the society. It is, as Green has said, "a power of which the exercise by the individual or by some body of men is recognized by a society either as itself directly essential to the common good, or as conferred by an authority of which the maintenance is recognized as so essential."¹² It is, therefore, Green's idea garbed in realistic terms.

Again, take for instance the conception of liberty. Mr. Laski quotes Green's definition with approval,¹³ and declares that it is more valuable than the negative conception,

¹¹ Laski. *Authority in The Modern State*. P. 67.

¹² Laski. *Authority in The Modern State*. P. 43.

¹³ Laski. *Authority in The Modern State*. P. 55.

because it insists on what, in this age, we feel to be fundamental in liberty—the power of adding something to the quality of the common life.¹⁴ In this connection, it may be observed that Mr. Laski is even over-enthusiastic about Green. He claims that Green in the "Prolegomena to Ethics" has answered the question as to what is worth while to do and to enjoy, that is, as to what good is. It is true that Green defines true good as that which satisfies the moral agent,¹⁵ and a moral agent is endowed with moral capabilities, the realization of which forms the moral good.¹⁶ But according to Green, we do not know our moral capabilities till their realization and they are not and can not be completely realized. He therefore admits his inability to define exactly what true good consists of.¹⁷ He is only able to form general ideas about it. The conclusion is that as true good is or would be complete realization of moral capabilities, so goodness is proportional to one's habitual responsiveness to the idea of there being such a true good in the various forms of recognized duty and beneficent work in which that idea has so far taken shape among men.¹⁸ If a definition is to render a defined subject definite, then, the conclusion arrived at by Green falls short of a definition.

Mr. Lilly believes in the doctrine of natural rights and adopts Green's definition.¹⁹ His adoption of Green's idea is not so apparent but the substance of it is there. The foundation of the state is, for instance, declared to be justice.²⁰

¹⁴ Laski. *Authority in The Modern State*. P. 55.

¹⁵ Green, *Prolegomena to Ethics*. P. 195.

¹⁶ Green, *Prolegomena to Ethics*. P. 196.

¹⁷ Green, *Prolegomena to Ethics*. P. 18.

¹⁸ Green, *Prolegomena to Ethics*. P. 207.

¹⁹ Lilly, *First Principles in Politics*. P. vii.

²⁰ Lilly, *First Principles in Politics*. P. 10.

Justice is based on the conception of an absolute order of right which demands a system of rights and obligations that should be maintained by law whether they are so or not. These rights, to employ Green's expression, "may properly be called natural."²¹ The definition of the word "natural" is, therefore, admittedly the same as that of Green. The conception of a right as necessarily involving a claim on the part of an individual to a free exercise of some faculty, and a recognition of that claim by society, is also essentially Green's idea. The ultimate foundation of the state is "the law of man's rational nature, in virtue of which he is a person invested with rights and encompassed by duties."²² That is to say, will and not force is the true basis of the state. Thus in broad outline, Mr. Lilly may be considered a follower of Green.

✓ Sir Roland Wilson is trained in law, and lawyers are not generally given to metaphysical speculation. He is, therefore, expected to disagree with the idealists, but he is careful in dealing with the doctrines with which he finds himself in disagreement. He agrees with the idealists that man is by nature a social being, and that he can not realize his full self except in a community,²³ but he doubts and, I think, rightly, that that community is necessarily the state. If, he argues, the principle of state interference is to maintain conditions under which morality may be possible, then it leaves room for all sorts of restrictive measures which are not properly within the province of the state.²⁴ Sir Roland Wilson clearly distinguishes moral from legal rights,²⁵ but, it seems to me, he contradicts himself in criti-

²¹ Lilly, First Principles in Politics. P. 9.

²² Lilly, First Principles in Politics. P. 9.

²³ Sir Roland Wilson, The Province of The State. P. 212.

²⁴ Sir Roland Wilson, The Province of The State. P. 215.

²⁵ Sir Roland Wilson, The Province of The State. P. 216.

cising Green's theory of natural rights; for in his criticism he confuses that which should be in principle with that which is as a matter of fact enforced.²⁶ Being a lawyer, he prefers the legal conception of rights in which neither reciprocity nor consciousness of a common good are necessary elements.²⁷ However, when he argues that "to stretch the state so as to cover all these non-official agencies is to bebase our linguistic coinage without any compensating gain,"²⁸ it must be said, his argument is not applicable to Green. He is decidedly in error when he says that "state" and "sovereign" are by both of these writers [Green and Bonsanquet] treated as interchangeable; for as far as Green is concerned, state and sovereign are expressly distinguished.²⁹

Even in America Green's influence is noticeable. Prof. Willoughby has few references to Green in his "Nature of The State," but these few are sufficient to indicate Green's influence. Prof. Willoughby agrees with Green that morality is incapable of legal enforcement³⁰ and, in so agreeing, he necessarily accepts also Green's definition of morality. Like Green, he is dissatisfied with the theory of Social Contract, and his arguments against it are in some ways similar to those of Green. He agrees, for instance, that natural right as "a right in a state of nature which is not a state of society is a contradiction,"³¹ and in thus agreeing with Green he also accepts the latter's idea of rights as involving both a claim on the part of the individual and also a recognition of that claim by society. Rights thus conceived can only exist in a society, and if they exist in a state of nature

²⁶ Sir Roland Wilson, The Province of The State. P. 217.

²⁷ Sir Roland Wilson, The Province of The State. P. 219.

²⁸ Sir Roland Wilson, The Province of The State. P. 223.

²⁹ Green, Principles of Political Obligation, Pp. 136-137.

³⁰ Willoughby, The Nature of the State. P. 53.

³¹ Willoughby, The Nature of the State. P. 107.

at all, that state of nature, as Green has pointed out, is already a political society. Hence Prof. Willoughby comes to the conclusion that the true origin of the state "must be conceived as an act of a people rather than of individuals. The existence of a common or 'general will' must be predicated, and the creation of the state held to be due to its volition."³²

For the rest of the chapter, I shall content myself with four books recently published. The first is "The Principles of Citizenship," by Sir Henry Jones. The author declares that the point of view that he has adopted is neither psychological nor economic, but ethical. In fact, according to his estimation, "the modern economist will now admit that his science is abstract just as the modern psychologist will admit that faculties of the human mind are not separable powers with an empty ego in the back-ground."³³ This should be quite encouraging, if in adopting the ethical point of view in treating political theory, Sir Henry Jones has either a new programme to offer or a decided improvement of the old political idealism. He does not seem to have offered either. While following Green in many respects, his philosophy is essentially along the lines of Bradley and Bosanquet. State, to him, is a moral agent and in functioning it should not limit itself merely to the externals as Green has so cautiously preached. According to Sir Henry Jones, externals and internals can not be separated. If the state has to intervene at all, it has to intervene not only with the external action, but also with the supposedly internal motive. In fact, state interference should be positive in nature so as to secure the desired end, that is, "to make human nature in citizens all that it has in it to become."³⁴

³² Willoughby, *The Nature of the State*. P. 123.

³³ Sir Henry Jones, *The Principles of Citizenship*. P. 161.

³⁴ Sir Henry Jones, *The Principles of Citizenship*. P. 132.

"It may and ought to exercise authority over the external conditions of life of its members with the view of changing not only their outward actions and intentions, but their motives and character."³⁵

Sir Henry Jones accepts Green's theory of natural rights, and in so considering rights and duties, he also accords the state the right to act positively. If state action is not merely negative but also positive, what, it may be asked, is the criterion of state action? The criterion is declared to be the positive promotion of the good life.³⁶ This criterion is applicable to war. The state has the right to summon citizens to a just war and to no other; and the citizen, on his part, has a right and duty to fight for a just war, and no other. But, who is to judge as to whether a war is just or unjust? The answer is both state and citizen. The state, being a moral agent, can not delegate its power for judging. The citizen has the right and duty to judge for himself and to act accordingly. It may even be his duty to fight his own country. This sounds quite radical, but—"what can not be his duty is that of taking no sides when the question of right or wrong is being decided by means of war. The pacifist's protest against the war when his country is fighting is the affirmation of the moral principle when it can not be applied. . . . The good man deals with the present circumstances and finds his duty at his hand."³⁷

I wonder if it may not be inferred from this that if a citizen opposes war, he must leave the country, lest the subsequent circumstances may compel him to discharge fresh duties at his hand. But, then, that leaves the state practically alone to decide whether a war is just or unjust.

³⁵ Sir Henry Jones, *The Principles of Citizenship*. P. 132.

³⁶ Sir Henry Jones, *The Principles of Citizenship*. P. 153.

³⁷ Sir Henry Jones, *The Principles of Citizenship*. P. 158.

In regard to property, the rights of the state and the citizen are, according to Sir Henry Jones, in similar way limited. The four principles³⁸ to be observed are: 1. Rights of free life mean nothing without sustenance; 2. the right of property is sacred on the same ground as the right to life and liberty; 3. state must facilitate the means that helps to exercise this right; 4. right of property is made contingent upon the use made of it.

Sir Henry Jones follows Green, but he follows Bradley and Bosanquet to a much greater extent.

Prof. Watson is confessedly an idealist and as far as political theory is concerned admits his debt to both Green and Bosanquet. He believes of course that the true basis of the state is will. He believes in general will but argues that Rousseau confuses the general will with the will of all;³⁹ but if there is any confusion at all, it is not Rousseau but Prof. Watson who is really confused. At any rate he believes in general will as a will common to the citizens of a state, a rational will—"that will which the individual in his best mind recognizes."⁴⁰ Ultimately it is the general will which is sovereign and it is the duty of the legal sovereign to discover what this general will is.

The general will creates rights and the system of rules for the maintenance of these rights which are necessary for the realization of the good will. These rights may be termed "natural" but they neither belong to men in isolation as the advocates of Social Contract believed, nor are they created by law as Bentham held. They are justified on the ground that if they are not secured, man is not able to live his own life freely and to contribute his share to the com-

³⁸ Sir Henry Jones, *The Principles of Citizenship*. Pp. 165-166.

³⁹ Watson, *The State in War and Peace*. P. 192.

⁴⁰ Watson, *The State in War and Peace*. P. 223.

mon good. They involve a claim on the part of the individual and a recognition of that claim by either society or the state. Prof. Watson here uses the terms society and the state interchangeably.⁴¹ The specific rights are life, liberty, equality and property. The last also includes the right to the freedom of contract.

The state is an organized society of men, and is sovereign. Sovereignty is supreme power, but the supremacy of the state is relative and not absolute.⁴² That is, the state has supreme power within a certain sphere to dictate or to prevent the action of others. It has no power to interfere with all sorts of activities. The state is above all other organizations not in the sense that it can make and unmake them at will, but in the sense that it is the high court of appeal through which their conflicting claims are harmonized.⁴³ The principle of state interference is to make moral acts possible by regulation, but not to enforce them.⁴⁴ The morality of the state is different from the morality of individuals. That does not exempt the state from moral responsibility. Like Green, Prof. Watson is against war, but he does not go to the same extent as Green does in denouncing war. His idea of the cause of war is very much Green's; so also is his idea of its prevention. Likewise he believes in having better political organization internally so as to diminish friction externally. He agrees with Bosanquet that a healthy state is not a militant state.

From the above account, it is only evident that Prof. Watson follows Green closely and if there is any divergence of view at all between the two, it is hardly noticeable.

⁴¹ Watson, *The State in War and Peace*. P. 222.

⁴² Watson, *The State in War and Peace*. P. 198.

⁴³ Watson, *The State in War and Peace*. P. 208.

⁴⁴ Watson, *The State in War and Peace*. P. 217.

On the whole, no improvement is made, and very likely none is intended.

However, the modern tendency is unmistakably against political idealism. Mr. Joad, in his "Essays in Common Sense Philosophy," launches a well-considered attack on idealistic political philosophy. He points out that political idealism regards the state as self-sufficing and as above morality, and that it believes that the state and individuals are so intimately interwoven with each other that the act of the state is never unrepresentative of the individuals, and the act of the individuals has inseparable reference to the state. One of the shortcomings of idealistic absolutism is that it identifies state with society. But state and society are two different entities. Human society is greater and more comprehensive than a state. In fact, judging from the past, just as families unite into tribes and tribes into nations, it will not be at all surprising to have nations unite into one great society in the future. To confound human society and the nation state is a mistake of the first magnitude.

Mr. Joad feels that the idealist philosophers seem to be in the habit of philosophizing in utter disregard of facts. In the first place, the state, that is, the political organization, is not the only organization in which human beings are interested. The church, to many, is a much more intimate organization; for while the state touches every-day life hardly at all, the church reminds some people of its existence at least once a week. Industrial unions touch economic life at such vital spots and with such intimacy that they arouse much more interest among their members than the state does among its citizens. Furthermore, with churches and trade unions or other voluntary organizations a man identifies himself by choice. The claims of these voluntary organizations may be said to be moral, but the

claims of the state seem to be often founded on "topographical accident." One belongs to it "because he happened to be born in a certain bedroom, a phenomenon over which he has no control."⁴⁶ This sounds wildly radical, but Mr. Joad is neither an anarchist nor a syndicalist. He believes in the necessity of a state. Because society is more and more industrialized, because human beings are more and more interdependent, and economic efforts are generally blind, a political association like the state is all the more necessary. But the kind of state he believes in is far different from the Utopia of the political idealists.

I have no quarrel with Mr. Joad's arguments which, when directed towards political absolutists, are on the whole sound. But it does not seem to be exactly correct to bring Green almost indiscriminately into the company of Hegel, Bradley and Bosanquet as Mr. Joad does in the first part of his chapter. I think there are differences which it will be profitable for us not to disregard. Mr. Joad seems to realize that fact later on in his book when Green's name disappears, but it is not certain whether that disappearance is due to careless omission or intentional exclusion.

Mr. Hobhouse in this respect makes his position unmistakable. He enters into the controversy with a grave purpose.⁴⁷ Like his son, he is engaged in a battle to make the world safe for democracy, but unlike his son his efforts run in a different channel. In order that the end may be obtained, not only must the swords be sharpened, but the pen must also contribute its share. While militarism is being destroyed in the world of practice, idealistic absolutism should be repudiated in the world of thought. Thus Prof. Hobhouse takes Hegelianism to task. It is not neces-

⁴⁶ Joad, Essays in Common Sense Philosophy. P. 189.

⁴⁷ Hobhouse, The Metaphysical Theory of The State.

sary to examine the specific charges which are brought against Dr. Bosanquet with the strength of reasoning and lucidity of expression generally expected from such a veteran writer as Hobhouse. My purpose in introducing him is to indicate, as he has indicated, that Green is far different from the thoroughly idealistic absolutists.

Prof. Hobhouse thinks that Green has retained his fundamental humanity⁴⁸ and that at his hands Hegelianism has been transformed into social idealism.⁴⁹ He points out that Green is always cautious where the rights of the individuals are concerned and that individuals are not absorbed in the state. He accepts Green's theory of natural rights with the exception of its idealistic ingredients. According to Green, a claim on the part of the individual becomes a right only when it is met with social and presumably conscious recognition, for idealistically speaking, nothing is but thinking makes it so. According to Professor Hobhouse, a right is a right, whether recognized or not, whenever proof is given of its necessity. The general will with Green is really conceived, according to Mr. Hobhouse, in the psychological sense. "It is the impalpable congeries of hopes and fears of a people bound together by common interest and sympathy."⁵⁰ "It is the common will and reason of men as determined by social relations, as interested in each other, as acting together for common ends"⁵¹ With Green, general will is not to overwhelm the individual, neither to override the moral law. When he declares that will and not force is the basis of the state, it is the state that is dependent upon will. If the state is not so dependent, it is a state only by courtesy, as Green said of Russia.

⁴⁸ Hobhouse, *Metaphysical Theory of The State*. P. 83.

⁴⁹ Hobhouse, *Metaphysical Theory of The State*. P. 120.

⁵⁰ *Principles of Political Obligation*. P. 98.

⁵¹ *Principles of Political Obligation*. P. 103.

Professor Hobhouse may not have pointed out all the differences between Green and the other idealists, but he does distinguish him from them. Hence in fighting to make the world safe for democracy, he is not fighting against Green so much as against Messrs. Bradley and Bosanquet.

CHAPTER IX CONCLUSION

The above survey of criticisms and comments indicates that Green has not been properly dealt with. His followers praise him too highly and attribute virtues to him that do not belong to his share, while his critics sometimes reveal a hostility that should not be his due. It is my purpose in this chapter to bring out the distinct merits as well as the defects embodied in Green's philosophy, but before starting on that, one erroneous impression should be cleared off. The belief that political idealism is necessarily political absolutism is entirely unwarranted. The factors leading to such a belief are probably accidental. Locke was one of the most influential advocates of democracy and it happened that he was an empiricist. Hegel was the intellectual leader of German absolutism and it happened that Hegel was an idealist. It might be urged that Locke wrote as a practical politician, and was influential because Englishmen admired the practical; while Hegel wrote as a philosopher, and was followed because the Germans worshipped the profound. But as a matter of fact, empiricism is no more wedded to democracy than idealism to absolutism. We need only bear in mind that the absolutism of Thomas Hobbes proceeded from his materialism and the democratic tendencies of the 18th century attributable to the eloquence of Jean Jacques Rousseau could be traced to the idealism back of his doctrines. Whether or not the "determinism distilled out of evolutionary science"¹ has surrendered to the tactics

¹Hobson, *The Crisis of Liberalism*. P. 187.

of conservatism, as Mr. Hobson claims, it is easy to point out that empiricism has sometimes played into the clutching hands of either autocracy or plutocracy. Neither is it hard to single out instances where idealism has generated centrifugal forces in modern politics. Philosophical labels do not matter much, but a great deal depends upon their application.

A few words need be said of the age in which Green wrote. The years 1776 and 1870 inaugurated different eras. The period of the American Revolution was memorable for many reasons. In the sphere of everyday life, the world had started on its great transformation. Hand industry was about to be replaced by machine industry. The thing we made—to employ the expression of William Morris—had begun to "drive" in the beginning of the 19th century. Misery and poverty had gotten hold of the working classes. In the field of intellectual speculation, the year 1776 was memorable. Adam Smith's *Wealth of Nations* and Bentham's *Fragment on Government* appeared in the same year. With physiocratic tendencies and the traditions of the 18th century philosophy the world might be said to have chosen an extremely individualistic path. Intellectually and factually, the period between 1776 and 1870 is one of *laissez faire*.

The last quarter of the last century marked a decided change. From 1870 to 1914 we have a period of collectivism, a period which Professor Hayes has characterized as the Era of Benevolent Bourgeoisie. Politically speaking, it is a period of intense nationalism in regard to foreign relations. Competitive armaments, the exodus of capital, and secret diplomacy are the distinguishing marks of international politics. It is a period of statism internally. The bourgeoisie, emerging from what was formerly called the middle class, gained political ascendancy. The successful

business men who are proudly described as being "self-made men" are often mindful of the bitter cup of experience they had once drunk and, thanks to democracy, they have attained success. Success seems to be the magic goal. A few succeed, some are succeeding, all are trying to succeed and in their frantic efforts to attain success, people of all classes, contrary to Marxian prediction, have worked together for "development" and "progress." National consciousness prevails to a much greater extent than class consciousness. In order to have peace within and honor abroad, the state must have necessary power to "regulate," to "adjust" and eventually to guide. That is the spirit of the age and it is with that spirit that Green has formulated his theories.

Obviously, merits are not lacking in Green's philosophy, but unfortunately its Hegelian label has prejudiced its content. Those who have studied him, however, generally deny that he is a Hegelian at all. Mr. Alfred William Benn, in his *History of English Rationalism in the 19th Century*, asserts vigorously that Green is not a Hegelian. Professor Barker describes Green's writings as a product of Oxford, immediately influenced by German philosophy, but ultimately traceable to Greek thought.

More specifically Green is more of an Aristotelian than a Platonist, and more of a Kantian than a Hegelian. Professor Barker is not alone in his estimation, for Professor Ritchie has come to almost the same conclusion in different words. The latter is of the opinion that Green's philosophy is a correction of Kant by Aristotle and of Aristotle by Kant. If so, he may be said to be both Kantian and Aristotelian. The same may in a certain sense be said of Hegel, but that in no sense identifies him with Green. In fact, referring to Hegel's work, Green has himself said that it must be done over again. These opinions indicate

that Green has really no occasion for borrowing a Hegelian mantle. Love for Hegel should not be cultivated on account of Green and prejudice against Hegel should not be carried over to Green.

Of the merits the first to be mentioned is Green's theory of natural rights. First of all it serves two distinct purposes as far as Green himself is concerned. It discredits the kind of absolutism that attributes rights to the grace of the sovereign, and it proves the falsity of the doctrine of government by the consent of the governed. If consent is a supreme necessity, then vote counting is a necessary part of the government. If vote counting is necessary, then there is always the difficulty of explaining and justifying the obedience of the minority. That justification has not been furnished by anybody and is not furnished by Green; but Green's theory of natural rights decreases the necessity of such a justification to a considerable extent. Green abhors mathematical government. Government based upon a counting of noses may be a practical expedient, but it can not be our democratic ideal. Government is, after all, a means to an end; make your means your end, and you defeat your ultimate purpose in life.

Further, Green's theory of natural rights is in harmony with modern economic facts and sociological theories. Division of labor prevails on a greater scale than ever before and interdependence of individuals is much more in evidence. A breakfast in London today may involve coffee from South America, wheat from North Dakota, tea from Ceylon, sugar from Cuba and probably potatoes from Ireland. Not only is the fact of economic interdependence indisputable, but also, as is claimed by sociologists, there is constantly in evidence a social consciousness working for a social good. We hear a great deal of "the consciousness of kind," of "social mentality," of "social mind" and of "social consciousness," and if we deduce any lesson from

them at all, it is that of mutual interdependence and the necessity of cooperation.

Now the old traditional theory of natural rights does not harmonize with these, if not new, at least more clearly defined facts and tendencies. One can not live in a society of mutual interdependence and retain at the same time the kind of natural rights that are supposedly existent in an isolated state of nature. One can not live in a society whose predominant characteristic is cooperation and at the same time assert fully the rights that are supposedly carried over from a state of nature, the chief feature of which is individual independence and isolation. Eighteenth century economics has been tried and found wanting. Eighteenth century political philosophy is equally so, and as far as the theory of natural rights is concerned, Green's correction is very likely in the right direction.

Green's theory of state interference will be found valuable. Mill, it will be remembered, divides human actions into the self-regarding and others-regarding and considers the latter alone as subject to state interference. The distinction is not sound, for human actions are far more often both self-regarding and others-regarding rather than either alone. A principle that is itself defective offers no guidance to the practice of state interference. Green's distinction between outward acts and inward will is one which, though not ideal, offers guidance to better advantage in view of the complexity of human relations. Outward acts alone are subject to state interference, because inward will not only should not be but also cannot be.

Many will not concede that Green has scored over Mill in this matter; for they say that it is just as hard to decide which of the outward acts should be a subject for state interference as it is to distinguish between the self-regarding and others-regarding. The advantage lies in the fact

that by Green's distinction, at least one part of human effort is excluded from the political area. Furthermore, Green's distinction is, after all, a real distinction, while Mill's is not. As to which of the outward acts should be subject to state interference, Green's answer is that only those should be that obstruct the possibility of a moral life. Basically it is to remove obstructions that the state intervenes. Dr. Bosanquet seeks to improve the phraseology by urging the expression, "Hindrance of hindrances." This, being the one Kant² used, Green must have been well aware of.

The difference between Mill and Green, as stated above, is fundamentally a difference in the conception of liberty. Mill's conception of liberty is negative, it is freedom from obstruction. Green's conception is positive. It is a positive power or capacity of doing or enjoying something worth doing or enjoying and something we do or enjoy in common with others. The difference is probably natural. Mill's conception is the traditional conception that has the 18th century philosophy at the background. The natural man is the good man. Left to themselves the people will be all right. It was restraint that forced people to be other than good; hence the negative conception of liberty. By Green's time, however, the evils of *laissez faire* have already become evident. The freedom of contract in commerce, in labor, in factory conditions and in industry in general has produced child and woman labor, misery, poverty and slavery which can not be tolerated by a man of Green's temperament and religious fervor. Something must be done, and who can do it better than the state. The 18th century philosophers were primarily concerned with removing oppression from above. Oppression is obstruction, hence, lib-

² Kant, Metaphysische Anfangsgründe der Rechtslehre, Einleitung XXXV, Sec. D.

erty is freedom from obstruction, primarily from above. By Green's time the problem is to remove the conditions voluntarily imposed by the people themselves that deprive them of any exercise of the power or capacity that is within them. The problem is to remove these conditions, these obstructions, not so much from above as from the stronger who are able to impose their will on the weaker. Therefore if the state intervenes, it does so for the purpose of maintaining rather than obstructing freedom.

Apart from its connection with the principle of state interference, the positive conception of freedom is itself useful. Some disadvantages of the negative conception are the advantages of the positive conception. The negative conception of liberty easily degenerates into license. It is often taken to be the right of doing whatsoever one will with what he is or has as his own. If such is the case, there will be the greatest scramble in society and anarchy may likely result. The positive conception of freedom means creative human effort. By definition it consists of doing or enjoying something worth doing or enjoying. The importance of conscious creative human effort can not be over-emphasized; for there is too much evidence everywhere of blind confidence that the future will be bright or fatalistic submission to the conviction that it will be dark. Either of the two is dangerous and detrimental to human progress, and by identifying freedom with creative human effort, this danger may be, if not avoided, at least lessened. This positive conception, again, has the advantage of implying the idea of a common good. Freedom is not merely the power to do or to enjoy something worth doing or enjoying, but also to do or enjoy in common with others. It is not doing what one likes with his own, for doing what one likes with his own may not be doing in common with others.

Closely related to the conception of freedom and the principle of state interference is the reconciliation of individualism and collectivism. It is no more correct to say that Green is a thorough-going collectivist than to say that he is a thorough-going individualist. He is neither and both, viz., in him there is a happy reconciliation. Green's conception of reason and of the will to good involves the idea of perfection or of a possibility of perfection. Man is determined to action by this idea of a possible perfection of himself. But along just what lines one will seek his own good and improvement must depend upon his own capacity or power. This brings us back to the conception of freedom.

If by reason in the moral sense is meant a consciousness of a possibility of perfection to be realized in and by the subject of consciousness, and if by freedom in the political sense is meant the power or capacity to do or enjoy certain things worth doing or enjoying; the two taken together will amount to nothing less than "self expression" in the present day terminology. They mean a consciousness in a man of the possibility of perfection in his power or capacity to do that which is worth doing to satisfy himself. This is individualism and it is individualism of the highest order. It is free from anarchistic tendencies, for they are excluded from its constituent elements.

As to collectivism, we need not repeat what has already been said with reference to the principle of state interference. The only point to be singled out is that with Green individualism and collectivism are harmonious with rather than antagonistic to each other. Collectivism under the guidance and application of the principle of state interference facilitates and strengthens individualism. Indeed, what Professor Barker has said of morality may also be said of individualism. If the state does not intervene, it is for the

sake of individuality that the state refrains; and if it does intervene, it is also for the sake of individuality that it intervenes.

There is one point in Green's philosophy that is especially in keeping with the spirit of the present time. He distinguishes state from what may be called Great Society. To Green, the state presupposes other associations. It does not, for instance, create rights but gives fuller reality to rights already existing.³ But what rights are already existing, viz., what rights existed previous to the formation of the state?

For answer let us refer to Green's theory of natural rights. Men by virtue of being in society are in certain relations and conditions that must be secured to them in order that they may fulfil their moral ideal, that is, in order that they may develop their power and capacity. This is in essence the foundation of rights. Do they depend upon the state? According to Green, they "arise out of social relations that may exist where a state is not. . . . They depend for their existence indeed on society but not on society's having assumed the form of a state."⁴ Therefore there are rights that are independent of any state. Not only are they independent of, but in a sense, more fundamental than the state. For in the first place the purpose for which the state exists at all is to give fuller reality to them. Secondly, some of them the state should never violate. Green is positive in his denunciation of war, and the reason given is that it violates the rights to life in the members of both the offending and the defending state. When discussing the question whether or not conflict between states is inevitable, Green says: "No action in its own interest of a state that fulfilled this idea," viz., the idea of a state as a

³ Principles of Political Obligation. P. 138.

⁴ Principles of Political Obligation. P. 150.

maintainer and harmonizer of rights, "could conflict with any true interest or right of general society."⁵ Later on he expresses his hope that an idea of justice, as a relation which should subsist among the whole of mankind, as well as between the members of the same state, may come to act on men's minds as independently of all calculation of their several interests as does the idea which regulates the conduct of a good citizen.⁶

This differentiation between the state and human society and Green's discussion of the right of the citizens to resist the state reveals his attitude towards the nature of state acts. State acts are not something irresistible and uncontrollable, but something with reference to which the terms right and wrong may be correctly used. The state is not above morality internally any more than externally. Internally, the state may do wrong, and externally, in regard to other states it may also do wrong; Green's doctrine has nothing to indicate that state and society are synonymous, as Mr. Joad seems to imply. In fact, Green expects that with the better and more perfect organization of the state according to its idea, the two will be harmonized. Neither is there any ground for supposing that, according to Green, state can do no wrong, for he has at least shown that the state does do wrong in many instances. The state as Green conceives it is, after all, not the horrible being that indiscriminate critics of political idealism are afraid of.

In the foregoing paragraphs, I have endeavored to present some of the merits of Green's system which seem to be well worthy of acknowledgment. In the following paragraphs, I shall deal with some defects which admirers of Green would like to see eliminated.

First of all, the theory that institutions are the embodi-

⁵ Principles of Political Obligation. P. 170.

⁶ Principles of Political Obligation. P. 178.

ment of reason⁷ is decidedly dangerous. Eventually it leads to conservatism, to a preservation and justification of the status quo. We are not asserting that institutions do not represent reason or that reason was not instrumental in the origin of institutions. Customs and conventions have reasons working towards their adoption. But we do affirm that the conception that social institutions are the embodiment of objective reason is dangerous, because our tendency to admire reason may be converted into a tendency to admire institutions, and institutions that existed or are existing are not always worthy of our admiration.

The explanation is really two-fold. Firstly, reasons that operated towards adopting a given institution, while sound at the time of adoption of that institution, may not remain sound at the present time in view of changing and changed circumstances. Geographical representation at a time when there is distinctive and individual local life may be an adequate method for representation, but it may not remain adequate when modern industrialism sweeps away local individuality.

Secondly, institutions may have been adopted through reasoning but not through sound reasoning, and as a result they may be as defective today as once they were in the past. The proper spirit is the spirit of improvement. But if we glorify the majesty of reason at the back of institutions, we are liable to lose our spirit of improvement and progress. The more we try to admire our past, the more convinced we are that the past really deserves our admiration. Human beings are a curious lot. If they have an ideal and exert strenuous efforts toward attaining it, they may eventually make their efforts their ideal. If they worship reason and believe that institutions are the em-

⁷ See P. 86.

bodiment of reason, they may eventually worship institutions. The lack of inventiveness in China, for instance, is largely due to this glorification of the past. Progressive people should look forward, and in this connection it should be said in fairness to Green that he looks to the future rather than the past for his inspiration. He himself is constantly looking for a fuller realization and a fuller development of human capacities.

But personal virtue should not be employed to minimize a doctrinal defect. Green in this particular instance evidently follows Hegel. But Hegel did not formulate his theory without a purpose. What he aimed at was the unification of Germany under a benevolent monarch and in order to accomplish that, he had to formulate a system of philosophy that would arrest the progress of the revolutionary doctrines before and after the French Revolution. He had to contend with the intellectuals of his time who knew their business. They knew that a political revolution could not be effected without revolution of other kinds. An atheist did not cut God off for nothing. The critics of the church had a definite purpose to serve. The worshippers of reason did not worship reason for the fun of it. The advocates of science had a definite axe to grind. They knew that a given political system was supported by and interwoven with the whole fabric of social, ethical and religious concepts, and in order to overturn that political system, they had to be iconoclastic towards not only the political but also the social, ethical and religious idols. In order to prepare the people to attain the desired end, they had to start with a general negation of all the existing, they had to demolish all the fondly cherished manners, customs and conventions. Hegel sought to undermine the tactics of the revolutionary generalship by evolving a system of philosophy which read into institutions the func-

tion of reason so that the worshippers of reason would worship institutions. The attempt was certainly ingenious for the purpose it was to serve, but it had not the strength to stem the tide of progressivism and radicalism. Since the latter is here to stay, there is very little excuse for resuscitating the former.

Sovereignty is always a thorny problem in political philosophy. Green's discussion, while remarkably to the point in regard to the distinction or rather non-distinction of sovereign *de jure* and sovereign *de facto*, seems nevertheless to be a futile attempt to combine Austin with Rousseau. He agrees with Austin to the extent that sovereignty is the supreme law-giving and law-enforcing power vested in determinate person or persons with occasional manifestations of coercive force. But he also agrees with Rousseau that sovereignty is basically will. Accordingly, sovereignty is supreme power, but it is only supreme power when supported by general will. Thus stated, the conception is either a truism that needs no elaborate polemics or an intellectual subterfuge that gets us nowhere. Those who are not in the habit of taking refuge in mysticism will ask somewhat realistically not whether sovereignty is will or power, but whose power it is that is supreme and whose will it is that supports that power. The privileged persons who wield supreme power in a country are not so easily ascertainable and may not, therefore, be said to be exactly determinate. But they form a class and we know whose power is supreme. We can not, however, generalize so easily as to whose will it is that supports the power. Absence of opposition by no means signifies wholehearted support. General acquiescence does not amount to general will. Indeed, we are tempted to agree with Professor Hobhouse that "in so far as it is will, it is not general, and

in so far as it is general it is not will."⁸ Neither a purely legalistic nor a purely metaphysical conception of sovereignty is satisfactory; hence, it may be expected, a hodge-podge of the two will not fare better with the present day political theorists.

The bald statement that will and not force is the true basis of the state will be encouraging to many as an abstract principle to be hoped for and attained, but it is hardly an analysis of facts. While we do not believe that might is right, we are too often reminded that power or force is a strong determining factor in public affairs in history as well as at the present time. Green is particularly unfortunate in his arguments to support his assertion. It is indeed regrettable enough that force, physical as well as economic, has been as unrestrained in directing human affairs as experience indicates; it is far more regrettable that if an end is attained by some means, in fact, by any means foul or fair, there is always some philosopher, true to the assertion of Frederick the Great, to applaud the end attained and to whitewash the means. We will be surrendering to the cynicism of that monarch, if we follow Green in his *ex post facto* justification of Napoleonic wars. If good when incidental to bad should not be "overruled" for bad, then bad when incidental to good should not be "overruled" for good. Green himself is quite aware of the fallacy of his logic.⁹ It may be tenderness not to be strict in our moral estimation, but in regard to a guiding principle it is dangerous to permit sympathetic feeling to get the better of our moral judgment. There seems to be a persistent tendency to countenance the vicious doctrine that the end justifies the means. It should be pointed out that instead of the end justifying the means, the means if not consistent with the end destroys the end, however desirable it may be.

⁸ Hobhouse, *Metaphysical Theory of State*. P. 127.

⁹ *Principles of Political Obligation*. P. 168.

In connection with Green's theory of the true basis of the state, there is another point that should not escape our attention. When will is declared to be the true basis of the state, we are easily led to believe that the state is consciously formed of our free will, because the word will generally implies positive effort. As a matter of fact the psychologists will be found irrefutable in their contention that subconscious psychological phenomena are just as instrumental as conscious will in maintaining the state. Conscious will is not the sole foundation of the state, and that is probably why Green in several places speaks of assent instead of consent. But if he distinguishes consent from assent, he should also distinguish active, positive conscious will from passive or negative or habitual acquiescence. When he speaks of the Roman Empire as based on will, it may be presumed that what is meant by will is really passive acquiescence. It is only easily imaginable that if the people had been given a free choice, they would probably not have elected to pay allegiance to Rome. If will and acquiescence were distinguished and were both regarded as the basis of the state, the argument against force might be better appreciated and more intelligently understood.

With a large number of people the chief ground for indictment against Green is to be found in his views on economic questions. He is insistent on land reform, but to the single taxers he has rejected the only remedy that would cure the evil systems he so eloquently complains of. His idea of capital is not up-to-date. While he is sensitive to the abuses of capital, he sees no inherent danger in the concentration of the control of capital. Above all his approach to this subject is different from that of a modern liberal. A modern liberal will inquire into the justice of the distribution of wealth, while Green is contented with a paternal interest in the gradual improvement of the material

conditions of the workers. The fundamental question with a modern Socialist, for instance, is whether it is just to allow some persons to accumulate as much as they can under the present circumstances, leaving a large number of people, in Green's phrase, without sufficient means to realize their moral ideal. A radical today is not bothered about the relative condition of the workman today as compared with the condition of his kind in the early part of the 19th century. Green's idea of legislation and freedom of contract may be objected to by the individualist as unnecessary interference on the part of the authority, and by the newer brands of Socialism as usurpation of arbitrary power by the state. His economics certainly leaves much to be desired. He does not fit in with any category. If we call him a Christian Socialist, we meet the opposition that he is Christian without being socialistic. If we bring him into the company of Roscher, Wagner and Schmoller and call him a Historical National economist, we are only too well aware that whether or not he is national enough, he is not sufficiently historical. His explanation of the historical origin of the proletariat is plainly influenced by his hostility toward land. The safe conclusion is that he is not an economist at all. He does not have the proper grasp of economic facts. If we criticise the economic portions of his political doctrine, we should be careful to consider his lack of information rather than to impute motives.

The most noticeable defect of Green's political theory is the absence of any discussion of the organization of government. The fundamental questions of the state are, of course, important, but having discussed them at length, the next problem is to formulate a programme of political organization through which alone political ideas can be worked in practice. If political theory does not deal with principles alone but also with their practical working, then

it should also indicate the kind of political organization that will be likely to facilitate the carrying out of those principles. If government is to be based upon the consent of the governed, then the problem of getting people to express their approval or disapproval on certain issues is certainly one that deserves attention, and if government of the whole people by the whole people is impracticable, then problems of representation should be considered so as to find out the best possible solution. If government is not to be based on the counting of noses, what is the substitute? Some expedients will have to be adopted, for in practical affairs, some determining device has to be agreed upon through which alone things can be accomplished. If it is not a majority of votes, it must be something else. So far as this problem is concerned, Green has not offered us any enlightenment at all. Elsewhere I have said that Green's theory of natural rights has diminished the urgency of a justification of the majority rule over the minority, but it does not by any means eliminate that problem. In the absence of a suggested substitute, it may be presumed that Green recognizes the majority rule as an expedient that is inevitable. If so, the justification of the subjection of minority remains a problem. And in the absence of a programme of governmental organization, it may be concluded that that problem remains with Green unsolved.

There are, of course, references to government, but in those cases, it must be confessed, their meaning is rather obscure. The distinction between the state and government is not as clear as might be expected. This obscurity is probably due to English conditions. The King in Parliament is often described as being the legal sovereign in Great Britain. Whatever it may do, it does without legal limitation. If there is not the tendency to confuse government with the state, there is at least no particular neces-

sity for their rigid distinction. But in a country like the United States, for instance, where there is a written constitution limiting the government in some well defined directions, where laws duly passed may be declared unconstitutional and where constitution can only be amended by a certain rigid process, one gets at a glance the difference between state and government; and when one looks at the adoption of the initiative and referendum in some of the states one wonders at the shrinkage of the power of the government and the expansion of that of the state, which in this case is generally called the "people." It may be questioned whether for Green such a distinction is necessary. Personally, I think it is. With regard to the principle of political obligation, for instance, I feel that we are better off if we bear in mind that our obligation is due to the state and not to any particular government. Furthermore, instead of being a reactionary doctrine, the distinction between government and state is highly democratic, in that it affords oftentimes the opportunity and justification for resistance to government, if necessary, in the name of the state.

Finally it may be asked whether Green is not, after all, following the footsteps of those whose onesidedness he has been attacking. The economists have created the economic man; we agree with Green that there is no such economic man. The Utilitarians described men as pleasure seekers; we know that only too often we do not fit in with their description. The sensationalists reduced us to a kodak; but the objects reflected on the retina of our eyes do not necessarily print pictures. The naturalists regard us primarily as animal organisms; but we are more than mere animal organisms. Green knows that and in his efforts to free us from being merely economic, exclusively utilitarian, mechanically sensational and simply animal, he has ren-

dered us almost pure consciousness. May it not be questioned whether such a conscious human being exists? Will he not share the same fate with the economic man, the pleasure seeker and the mere animal organism?

Logic sometimes drives man mad, but in logic there is beauty. Idealistic as well as materialistic philosophy has its intellectual charms. It has been said of Karl Marx that the Marxian system is a credit to human ingenuity; hence rather than to demolish it piecemeal, it is better to permit its structure to retain its sublimity and brilliance. The same may be said of Green. Besides the intellectual charm out of reading him, one shares his social idealism. He actually confesses to "hoping for a time when the phrase [the education of a gentleman] will have lost its meaning, because the sort of education which alone makes the gentleman in any sense will be within reach of all. As it was the aspiration of Moses that all the Lord's people should be prophets, so with all seriousness and reverence, we may hope and pray for a condition of English society in which all honest citizens will recognize themselves and be recognized by each other as gentlemen."¹⁰ Such an ideal is nowadays too often lost sight of.

¹⁰ Works, Vol. III. P. 475.

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VITA.

The writer of this monograph was born in Hunan, China. He studied in Ming-teh, Yale and Tsing Hua preparatory schools before coming to the United States. In 1917 he was graduated from the University of Pennsylvania and in the following year he obtained from Columbia the degree of A.M., for which he wrote "The Financial Powers of the Governors of the Different States." At Columbia he studied under Professors Dunning, Robinson, Hayes, Schuyler, McBain, Powell, Beard, Sait, J. B. Moore, Munroe Smith, Seligman, Giddings and Simkhovitch.





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